

## Title 2

### ADMINISTRATION AND PERSONNEL\*

#### Chapters:

- 2.01 Administrative Code
- 2.02 Code of Ethics
- 2.04 Elected Officials
- 2.06 Auditor
- 2.08 Local Government Employees
- 2.10 Personnel System
- 2.11 Finance and Budget System
- 2.12 Council of Commissioners
- 2.14 Land Division
- 2.16 Fire Department
- 2.20 Law Enforcement Department
- 2.24 Law Enforcement Commission
- 2.28 Board of Health
- 2.32 Civic Center Board
- 2.36 Park and Recreation Board
- 2.40 Planning Board
- 2.44 Public Library Board
- 2.48 Zoning Board of Adjustment
- 2.52 Department of Public Works
- 2.56 Public Archives
- 2.60 Handicapped Advisory Committee
- 2.62 Advisory Committee for Americans with Disabilities Act
- 2.64 Historic Preservation Commission
- 2.68 Fire Commission
- 2.72 Small Business Incubator Center Boards
- 2.76 Friends of the Urban Forest Board
- 2.80 Fair Board
- 2.82 Urban Revitalization Agency Board
- 2.84 Tax Increment Financing Industrial Districts Board
- 2.86 Parking Commission
- 2.88 Animal Control Board
- 2.92 Community Enrichment Appeals Board
- 2.96 Mosquito Control District Board
- 2.98 District Weed Board

\* For provisions on the weed control board, see Ch. 8.04.

#### Chapter 2.01

### ADMINISTRATIVE CODE

#### Sections:

- 2.01.010 Purpose.
- 2.01.020 Scope.
- 2.01.030 Administrative Code established.
- 2.01.040 Reference applies to all amendments.

2.01.050 Title, chapter and section headings.  
2.01.060 Reference to specific ordinances.  
2.01.070 Effect of Administrative Code on past actions and obligations.  
2.01.080 Effective date of Administrative Code.  
2.01.090 Constitutionality.

2.01.010 Purpose.

The purpose of this chapter is to establish an Administrative Code to comply with Sections 10.06 and 11.05 of the amended Butte-Silver Bow Charter. (Ord. 600 § 2, 1997)

2.01.020 Scope.

This chapter grants authority and establishes a format for adoption of a system of regulations setting forth policies in the following areas: (1) procurement and central purchasing; (2) supervision and discipline of personnel; (3) safety; (4) capital improvements and (5) such other regulations as the council shall determine necessary. (Ord. 600 § 3, 1997)

2.01.030 Administrative Code established.

There is established and created a Butte-Silver Bow City-County Administrative Code which shall establish regulations setting forth policies in the following areas: (1) procurement and central purchasing; (2) supervision and discipline of personnel; (3) safety; (4) capital improvements and (5) such other regulations as the council shall determine necessary. (Ord. 600 § 4, 1997)

2.01.040 Reference applies to all amendments.

Whenever any reference is made to this code as the "Butte-Silver Bow Administrative Code" or to any portion thereof, or to any ordinance or resolution of the city and county of Butte-Silver Bow, state of Montana, the reference shall apply to all amendments, corrections and additions heretofore, now or hereafter made. (Ord. 600 § 5, 1997)

2.01.050 Title, chapter and section headings.

Title, chapter and section headings contained in this code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any title, chapter or section hereof. (Ord. 600 § 6, 1997)

2.01.060 Reference to specific ordinances.

The provisions of this code shall not in any manner affect matters of record which refer to, or are otherwise connected with ordinances which are therein specifically designated by number or otherwise and which are included within the Butte-Silver Bow Municipal Code, but such reference shall be construed to apply to the corresponding provisions contained within the municipal code. (Ord. 600 § 7, 1997)

2.01.070 Effect of Administrative Code on past actions and obligations.

Neither the adoption of this code nor the repeal or amendments hereby of any ordinance or part or portion of any ordinance of the city and county of Butte-Silver Bow, state of Montana, shall in any manner affect the prosecution for violations of ordinances, which violations are committed prior to the effective date of the ordinance codified in this chapter of the Butte-Silver Bow Municipal Code, nor be construed as a waiver of any license, fee or penalty at such effective date due and unpaid under such ordinances, nor be construed as affecting any of the provisions of such ordinances relating to the collection of any such license, fee or penalty, or the penal provisions applicable to any violation thereof, or to affect the validity of any bond or cash deposit in lieu

thereof required to be posted, filed or deposited pursuant to any ordinance and all rights and obligations thereunder appertaining shall continue in full force and effect. (Ord. 600 § 8, 1997)

2.01.080 Effective date of Administrative Code.

This code shall become effective on December 31, 1997. (Ord. 600 § 9, 1997)

2.01.090 Constitutionality.

If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code. The council declares that it would have adopted the Administrative Code, and any section, subsection, sentence, clause and phrase promulgated thereunder, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional. (Ord. 660 § 10, 1997)

## Chapter 2.02

### CODE OF ETHICS

#### Sections:

2.02.005 Title.  
2.02.010 Findings.  
2.02.015 Purpose and authority.  
2.02.020 Definitions.  
2.02.030 Ethical standards.  
2.02.040 Nepotism.  
2.02.050 Public participation.  
2.02.060 Open meetings.  
2.02.070 Distribution.

2.02.005 Title.

This chapter shall be known and may be cited as "the Butte-Silver Bow City-County code of ethics." (Ord. 547 § 2, 1996)

2.02.010 Findings.

The council of commissioners of the city-county of Butte-Silver Bow finds and declares that:

- A. Public office and employment are a public trust;
- B. The vitality and stability of representative democracy depends upon the public's confidence in the integrity of its elected and appointed representatives;
- C. Governments have the duty both to provide their citizens with standards by which they may determine whether public duties are being faithfully performed and to appraise their officers and employees of the behavior which is expected of them while conducting such duties. (Ord. 547 § 3, 1996)

2.02.015 Purpose and authority.

It is the purpose of this chapter to provide a method of assuring that standards of ethical conduct for officers and employees and members of boards, commissions and authorities of the city-county shall be clear, consistent, uniform in their application and enforceable and to provide those officers or employees, board, commission or authority members with advice and information concerning possible conflicts of interest which might arise in the conduct of

their public duties. Such ethical standards shall inspire and stimulate each officer and employee to:

A. Be dedicated to the concepts of effective and democratic local government by responsible elected officials and believe that professional general management is essential to the achievement of this objective;

B. Affirm the dignity and worth of the services rendered by government and maintain a constructive, creative and practical attitude toward public affairs and a deep sense of social responsibility as a trusted public servant;

C. Be dedicated to the highest ideals of honor and integrity in all public and personal relationships so that each public servant may merit the respect and confidence of elected officials, of other officials and employees and of the public;

D. Recognize that the chief function of local government at all times is to serve the best interests of all of the people. (Ord. 547 § 4, 1996)

#### 2.02.020 Definitions.

As used in this chapter:

"Affinity" means a relationship by marriage and the degrees are determined as follows: husband and wife are of the first degree; brothers-in-law, sisters-in-law, fathers-in-law and mothers-in-law are of the second degree.

"Agency" means any Butte-Silver Bow city-county agency, board, commission, authority or governing body, and any independent local authority created by or appointed under the authority of the city-county.

"Agenda" means a memoranda of items of business or discussion to be brought up at a meeting. The agenda should be distributed at least forty-eight hours in advance of a meeting and must be distributed at least twenty-four hours in advance of a meeting unless an emergency is declared. No item may be added to the agenda once distributed, unless a specific, written finding of emergency is prepared.

"Business organization" means any corporation, partnership, firm, enterprise, franchise, association, trust, sole proprietorship, union or other legal entity.

"City-county" means the local government of the city and county of Butte-Silver Bow, Montana and includes that area within its jurisdiction.

"Consanguinity" means blood relation and degrees are determined as follows: parent and child are of the first degree; grandparents, grandchildren, brothers and sisters are of the second degree; uncles, aunts, nephews, nieces, great grandparents and great grandchildren are of the third degree; first cousins, great uncles and great aunts, great nephews and great nieces and great-great grandparents and great-great grandchildren are of the fourth degree.

"Employee" means any person, whether compensated or not, whether part time or full time, employed by or serving on an agency who is not a local government officer and including a member of a quasi-judicial board, commission or authority or of a board, commission or authority with contracting or employing power.

"Interest" means the ownership or control of more than ten percent of the profits, assets or stock of a business organization but shall not include the control of assets in a nonprofit entity or labor union.

"Meeting" means the convening of a quorum of the constituent membership of an agency whether corporal (i.e., in person) or by means of electronic equipment, to hear, discuss or act upon a matter over which the agency has supervision, control, jurisdiction or advisory power.

"Nepotism" means the bestowal of political patronage by reason of relationship rather than of merit. It applies to the appointing authority for a position of employment and does not apply to the confirming authority, nor does it apply to line supervisors without appointing authority.

"Officer" means any person whether compensated or not, whether part time or full time, who is one of the following:

1. Member of the council of commissioners;
2. Chief executive;
3. Chief of the fire department;
4. Director, finance and budget department;
5. Director, health department;
6. Director, personnel department;
7. Director, planning department;
8. Director, public works department;
9. Elected executive officers including: assessor, auditor, clerk of the district court, clerk and recorder, coroner, county attorney, public administrator, sheriff, superintendent of schools and treasurer;
10. Elected judicial officers, including: justices of the peace and police judge;
11. Building and code official;
12. Business development center director;
13. Chief librarian;
14. Chief youth court probation officer;
15. Civic center manager;
16. Community development director;
17. Disaster and emergency services coordinator;
18. Developmental disabilities coordinator;
19. Extension agent;
20. Weed board supervisor;
21. Landfill manager;
22. Metro sewer division plant superintendent and maintenance superintendent;
23. Maintenance center foreman;
24. Parks and recreation director;
25. Road division foreman;
26. Transit director; and
27. Water utility division manager.

"Officer or employee" means an officer or employee of the city-county or a member of an agency under the authority of or appointed by the chief executive and confirmed by the council of commissioners.

"Quorum" means a majority of the number of members of an agency. The total membership of an agency is to be taken as the basis for computing a quorum, but when there is a vacancy, unless a special provision is applicable, a quorum will consist of the majority of the members remaining qualified.

"Rules of procedure" means those rules of procedure adopted by each agency for the conduct of its meetings. Unless a special provision is applicable, rules of procedure shall mean Mason's Manual of Legislative Procedure. (Ord. 547 § 5, 1996)

#### 2.02.030 Ethical standards.

Officers and employees of the city-county shall comply with the following provisions:

A. No officer or employee may be interested in any contract made by them in their official capacity or by any public body, agency, board, commission or authority of which they are members or employees, with the following exceptions:

1. The term "be interested in" does not include holding a minority interest in a corporation, as defined in 2.02.020;
2. The term "contract" does not include:
  - a. Contracts awarded to the lowest responsible bidder or party submitting the proposal determined superior;

b. Merchandise sold at public auction;  
c. Investments or deposits in financial institutions; and  
d. Contracts based upon sole source, where because of geographic restrictions the local government could not otherwise reasonably afford itself the subject of the contract. Sole source presumptions shall be determined in accordance with Montana law.

3. The council of commissioners may waive the application of the prohibition contained in this section and grant a waiver to the appropriate officer or employee only after public disclosure, including conducting a public hearing, in accordance with Montana law.

B. No officer or employee of the city-county shall have an interest in a business organization or engage in any business, transaction, or professional activity, which is in substantial conflict with the proper discharge of his or her governmental duties.

C. No officer or employee shall use or attempt to use his or her official position to secure unwarranted privileges or advantages for himself, herself or others.

D. No officer or employee shall act in his or her official capacity in any matter where he or she, or any business organization in which he or she has an interest has a direct or indirect financial or personal involvement that might reasonably be expected to impair his or her objectivity or independence or judgment.

E. No officer or employee shall undertake any private employment or service which might prejudice his or her independent judgment in the exercise of his or her official duties.

F. No officer or employee or any business organization in which he or she has an interest shall solicit or accept any gift, favor, political contribution, service, promise of future employment, or other thing of value for the purpose of influencing him or her, directly or indirectly, in the discharge of his or her official duties. In this regard, the appearance of impropriety must be avoided by the acceptance of such a gift.

G. No officer or employee shall use, or allow to be used, his or her public office or employment or any information, not generally available to the members of the public, which he or she receives or acquires in the course of employment, for the purpose of securing financial gain for himself or herself, or any business organization with which he or she is associated.

H. No officer or employee or any business organization in which he or she has an interest shall represent any other person or party except the city-county in connection with any cause, proceeding, application or other matter pending before any agency of the city-county. The only other exceptions shall be in the process of collective bargaining for public employees or where any officer or employee shall represent himself, herself or themselves, in negotiations or proceedings concerning his, her or their own interests.

I. No officer shall be in conflict with these provisions if, by reason of his or her participation in the enactment of any ordinance, resolution or other matter required to be voted upon, no particular material or monetary gain accrues to him or her.

J. No elected officer shall be prohibited from making an inquiry for information on behalf of a constituent, if in return, no fee, reward or other thing of value is directly or indirectly promised to or accepted by the officer.

K. No officer or employee, elected or appointed in the city-county, shall without receiving formal written authorization from the appropriate person or body, disclose any confidential information concerning any other officer or employee or any other person or any property or governmental affairs of the city-county.

L. No officer or employee, shall approve or disapprove or in any way recommend the payment of any bill, voucher or indebtedness in which he or she

has direct or indirect interests except reimbursement for proper expenses otherwise approved by the appropriate department head.

M. No officer or employee shall request, use or permit the use of any public property, vehicle, equipment, labor or service for personal convenience or advantage for himself or any other person. The only exception shall be where it is the general practice to make the same available to the public at large or where the same is provided pursuant to stated public policy for the use of officials and employees in the conduct of official business.

N. All officers or employees shall exercise prudence and integrity in management of public funds in their custody and in all financial transactions.

O. All officers or employees shall uphold the letter and spirit of the constitution, statutes, ordinances and regulations governing their duties and report violations of the law to appropriate authorities.

P. All officers or employees shall be sensitive and responsive to the concerns and questions of the public. (Ord. 547 § 6, 1996)

#### 2.02.040 Nepotism.

All personnel matters shall be administered on the basis of merit and through regular management procedure except:

A. No one may be appointed to a position within a city-county department if related or connected by consanguinity within the fourth degree or by affinity within the second degree to the person making the appointment to that department.

B. No one may be appointed to a position within a city-county department if related or connected by consanguinity within the fourth degree or by affinity within the second degree to any person sitting on a board, authority or commission making the appointment to that department. The above shall include but not be limited to the following: council of commissioners, board of health, housing authority, port authority, airport authority, library board, parking commission, planning board, law enforcement commission, fire commission, URA board, fair board, weed board or mosquito control board. For example, a member of the council of commissioners could not vote to appoint a relative as council secretary, but could confirm the appointment by the chief executive of a (council person) relative as a member of the fire department. (Ord. 547 § 7, 1996)

#### 2.02.050 Public participation.

A. Each agency shall develop procedures for permitting and encouraging the public to participate in agency decisions that are of significant interest to the public. The procedures shall assure adequate notice and assist public participation before a final agency action is taken that is of significant interest to the public.

B. An agency shall be considered to have complied with the notice provisions of subsection A of this section if:

1. A public hearing, after appropriate notice is given, is held pursuant to Section 7-1-4101, et seq. or any other provision of state law or local ordinance or resolution; or

2. A newspaper of general circulation within the city-county has carried a news story or advertisement concerning the decision sufficiently prior to a final decision to permit public comment on the matter; A meeting is held at a regularly scheduled time on a regularly scheduled date and the agenda is distributed at least forty-eight hours in advance. For example, if an agency regularly meets at seven p.m. on the first Wednesday of each month, no further notice need be given of the meeting, except distribution of the agenda prior to seven p.m. on the first Monday.

C. Any official who is required by law to publish any notice required by law may supplement such publication by a radio or television broadcast of a

summary of such notice or by both of such broadcasts when in his/her judgment the public interest will be served.

1. The summary of such notice shall only be read with no reference to any person by name then a candidate for political office.

2. Such announcements shall be made only by duly employed personnel of the station from which such broadcast emanates.

3. Proof of publication of a summary of any notice by radio or television broadcast shall be by affidavit of the manager, an assistant manager or a program director of the radio or television station broadcasting the same. (Ord. 547 § 8, 1996)

#### 2.02.060 Open meetings.

A. All meetings of local agencies or organizations or agencies supported in whole or in part by public funds or expending public funds must be open to the public and must have an agenda. All such meetings shall be held in places accessible to the public as required by the Americans with Disabilities Act. The agenda should be distributed at least forty-eight hours in advance of a meeting and must be distributed at least twenty-four hours in advance of a meeting unless an emergency is declared. No item may be added to the agenda once distributed, unless a specific, written fording of emergency is prepared.

B. All meetings of associations that are composed of local agencies and that regulate the rights, duties or privileges of any individual must be open to the public and must be held in places that are accessible to the public as required by the Americans with Disabilities Act.

C. Provided, however, the presiding officer of any meeting may close the meeting during the time the discussion relates to a matter of individual privacy and then if and only if the presiding officer determines that the demands of individual privacy clearly exceed the merits of public disclosure. The right of individual privacy may be waived by the individual about whom the discussion pertains and, in that event, the meeting must be open.

D. A meeting may be closed to discuss a strategy to be followed with respect to litigation when an open meeting would have detrimental effect on the litigating position of the public agency, but a meeting may not be closed to discuss strategy to be followed in litigation in which the only parties are public agencies or associations.

E. Any committee or subcommittee appointed by a local agency or association for the purpose of conducting business which is within the jurisdiction of that agency or association is subject to the requirements of this section.

1. Appropriate minutes of all meetings required to be kept open shall be kept and shall be available for inspection by the public.

2. Such minutes shall include without limitation:

a. Date, time and place of meeting;

b. A list of the individual members of the agency or organization in attendance;

c. The substance of all matters proposed, discussed or decided; and

d. At the request of any member, a record by individual members of any votes taken. (Ord. 547 § 9, 1996)

#### 2.02.070 Distribution.

The clerk and recorder shall cause a copy of the ordinance codified in this chapter to be distributed to every public officer and employee and every board, commission and authority member of the city-county within thirty days after enactment of said ordinance. Each public officer and employee and board, commission and authority member, elected, appointed, or engaged thereafter shall be furnished a copy before entering upon the duties of this office or employment. (Ord. 547 § 10, 1996)



## Chapter 2.04

### ELECTED OFFICIALS

#### Sections:

- 2.04.010 Salaries designated.
- 2.04.020 Salaries--Fixed by budget appropriation for all other local government officials and employees.
- 2.04.030 Deputies allowed elected officials.
- 2.04.040 Definitions.

#### 2.04.010 Salaries designated.

The Butte-Silver Bow officials named in this section shall receive an annual salary according to the following schedule effective July 1, 2002.

A. The chief executive shall receive seventy-three thousand eight hundred nine dollars annually, which is one hundred two percent of the annual salary of the county attorney.

B. The county attorney shall receive seventy-two thousand three hundred sixty-two dollars annually, in accordance with the applicable sections of state law for full time county attorney in counties with populations greater than thirty thousand residents. In addition to the annual salary, the county attorney shall receive the annual discretionary longevity salary adjustment for county attorneys, as set forth in state law.

C. The sheriff shall receive fifty thousand eight hundred seventy-six dollars annually.

D. The clerk and recorder shall receive thirty-nine thousand five hundred ninety-two dollars annually.

E. The treasurer shall receive thirty-six thousand five hundred sixty-five dollars annually.

F. The assessor shall receive thirty-six thousand five hundred sixty-five dollars annually.

G. The city judge shall receive thirty-six thousand five hundred sixty-five dollars annually.

H. Each justice of the peace shall receive thirty-six thousand five hundred sixty-five dollars annually.

I. The auditor shall receive thirty-six thousand five hundred sixty-five dollars annually.

J. The superintendent of schools shall receive thirty-six thousand five hundred sixty-five dollars annually.

K. The clerk of the district court shall receive thirty-six thousand five hundred sixty-five dollars annually.

L. The coroner shall receive eighteen thousand two hundred eighty-three dollars annually. In addition to the annual salary, the coroner shall receive three hundred sixty dollars annually as reimbursement for travel expenses.

M. Each member of the council of commissioners shall receive three thousand seven hundred two dollars annually. In addition to the annual salary, each member of the council of commissioners shall receive nine hundred dollars annually as reimbursement for travel expenses;

N. The chairman of the council of commissioners shall receive an additional one thousand nine hundred sixty-one dollars annually.

O. The public administrator shall receive such compensation as is provided for that office by state law. (Ord. 02-16 § 1, 2002: Ord. 01-11 § 1, 2001: Ord. 00-11 § 1, 2000: Ord. 99-10 § 1, 1999: Ord. 98-16 § 1, 1998: Ord. 588 § 1, 1997: Ord. 568 § 1, 1996: Ord. 529 § 1, 1995: Ord. 496 § 1, 1995: Ord. 452

§ 1, 1993: Ord. 435 § 1, 1992: Ord. 414 § 1, 1991: Ord. 385 § 1, 1990: Ord. 363 § 1, 1989: Ord. 336 § 1, 1988: Ord. 60 § 1, 1978)

2.04.020 Salaries-Fixed by budget appropriation for all other local government officials and employees.

The salaries of all other local government officials and employees shall be fixed and determined from time to time by the council of commissioners by budget appropriation therefor, subject to applicable state law. (Ord. 336 § 2, 1977: Ord. 60 § 2, 1978)

2.04.030 Deputies allowed elected officials.

The number of deputies allowed each office named in this section may not exceed the following schedule:

- A. Clerk and recorder, six deputies, one of which may be a chief deputy;
- B. Auditor, one deputy;
- C. Treasurer, five deputies, one of which may be a chief deputy;
- D. Clerk of the district court, six deputies, one of which may be a chief deputy;
- E. Attorney, five deputies, one of which may be a chief deputy;
- F. Superintendent of schools, one deputy;
- G. Coroner, three deputies. (Ord. 98-2 § 1, 1998; Ord. 414, § 2, 1991: Ord. 336 § 3, 1977: Ord. 150 § 1, 1981: Ord. 60 § 3, 1978)

2.04.040 Definitions.

The following definitions shall apply in interpreting Chapter 2.04 of this code:

- A. Annual Salary. The words "annual salary" mean the amount to be paid to a local government officer or employee over the annual fiscal year.
- B. All Other Local Government Officials and Employees. The words "all other local government officials and employees" mean all officials and employees of the local government of the city and county of Butte-Silver Bow not specifically named in Section 2.04.010. (Ord. 336 § 4, 1988)

## Chapter 2.06

### AUDITOR

#### Sections:

- 2.06.010 Purpose.
- 2.06.020 Scope.
- 2.06.030 Definitions.
- 2.06.040 Duties.
- 2.06.050 Investigatory powers.
- 2.06.060 Conflict of state statutes.

2.06.010 Purpose.

The purpose of this chapter is to establish and define the duties and responsibilities of the Butte-Silver Bow auditor in addition to and including duties established by state law for county auditors excepting those duties transferred by Chapter 3.16. (Ord. 95 § 1, 1979)

2.06.020 Scope.

The Butte-Silver Bow auditor shall audit, make audit recommendations, provide accurate financial information on a timely basis, and confer with local

government officials concerning audit findings and recommendations. (Ord. 95 § 2, 1979)

2.06.030 Definitions.

- A. "Council" means the council of commissioners of Butte-Silver Bow.
- B. "Government" means the local government of Butte-Silver Bow.
- C. "Chief executive" means the chief executive of Butte-Silver Bow.
- D. "Auditor" means the auditor of Butte-Silver Bow. (Ord. 95 § 3, 1979)

2.06.040 Duties.

It is the duty of the auditor to:

A. Review the monthly reconciliation of bank statements comparing government receipts and expenditures to help assure the accuracy and reliability of financial information; this report shall be provided to the council of commissioners and the chief executive by the second regular council meeting of the ensuing month;

B. Ascertain whether the financial statements prepared from the accounts present fairly the financial position of the government in accordance with generally accepted accounting principles applicable to governmental units;

C. Examine the propriety, legality, reliability and mathematical accuracy of the government's financial transactions;

D. Ascertain whether financial transactions have been properly recorded;

E. Ascertain the stewardship of public officials who handle and are responsible for financial resources of a governmental unit;

F. Ascertain that assets of all kinds, both those in hand and those disposed of, have been accurately and fully accounted for, and that normal accounting processes provide information that discloses losses and wasteful practices;

G. Determine that local governmental prescribed policies and procedures are being complied with by all local governmental operating units;

H. Make reports to the council of commissioners and the chief executive of observations with recommendations for improvement in the various sectors of the government based on the verification of completed financial transactions and records;

I. Review and appraise accounting personnel performance under established policies and procedures;

J. Perform post audit reviews, make recommendations respective to problems disclosed in the audit report and report quarterly compliance and/or noncompliance of audit report recommendations including definition and implementation of corrective action to the council of commissioners and the chief executive;

K. Audit in accordance with generally accepted auditing standards for a governmental entity all bills, claims, accounts or charges for materials of any kind or nature that may be purchased by and on behalf of the local government of Butte-Silver Bow by Butte-Silver Bow officials or contracted for by the chief executive and council of commissioners;

L. Make periodic examinations of the financial books and accounts of Butte-Silver Bow officials and report the results of such examinations to the council of commissioners and the chief executive at least quarterly.

Reports or portions of reports pertaining to receipts and disbursements shall contain a full and complete statement of the money received and disbursed by each of the officials since the last examination and report. For the purposes of this section, the auditor shall have free access to all books and papers in each of said offices. (Ord. 95 § 4, 1979)

2.06.050 Investigatory powers.

A. The auditor is authorized to administer any oath or affirmation rendered necessary for the performance of the duties of the office.

B. The auditor shall have the power to issue process and compel the attendance of witnesses and examine any matter deemed necessary. (Ord. 95 § 5, 1979)

#### 2.06.060 Conflict of state statutes.

All state statutes in conflict with this chapter are hereby superseded subject to those limitations imposed by the laws of the state of Montana upon self-power units of local government. (Ord. 95 § 6, 1979)

### Chapter 2.08

#### LOCAL GOVERNMENT EMPLOYEES

##### Sections:

- 2.08.010 Residence during employment.
- 2.08.015 Exception to residency requirement.
- 2.08.070 Travel expenses.
- 2.08.080 Computation of meal allowance.
- 2.08.090 Mileage expense.
- 2.08.100 Incidental expenses.
- 2.08.110 Transportation expense.
- 2.08.130 Reimbursement procedures.
- 2.08.140 Travel authorization.

#### 2.08.010 Residence during employment.

From and after October 1, 1979, all employees of the local government of Butte-Silver Bow shall be bona fide residents within the boundaries of Butte-Silver Bow during the period of their employment by the government of Butte-Silver Bow. (Ord. 85 § 1, 1979)

#### 2.08.015 Exception to residency requirement.

The provisions of Section 2.08.010 requiring that all local government employees be bona fide residents within the geographical limits of Butte-Silver Bow shall not apply to any employee:

- A. Who has been recommended by his supervisor as having particular or special qualifications for employment; and
- B. Whose employment has been approved by the council of commissioners. (Ord. 104 § 1, 1980: Ord. 85 § 1.2, 1979)

#### 2.08.070 Travel expenses.

- A. Travel Within the State of Montana.

1. All elected local government officials, appointed members of boards, commissions, councils, department directors and all other local government employees shall be authorized the actual cost of single rate lodging plus five dollars for the morning meal, seven dollars for the midday meal and twelve dollars and fifty cents for the evening meal. In those cases where an individual is entitled to meal expense reimbursement and the individual is in travel status for less than twenty-four hours all claims for meal expense reimbursement must be documented by an appropriate receipt. All claims for lodging reimbursement allowed under this section must be documented by appropriate receipt.

- B. Travel Out of the State of Montana.

1. All elected local government officials, appointed members of boards, commissions, councils, department directors and all other local government employees shall be authorized the actual cost of single rate lodging plus eight

dollars for the morning meal, twelve dollars for the midday meal and seventeen dollars for the evening meal. All claims for lodging reimbursement allowed under this section must be documented by appropriate receipt. (Ord. 419 § 1, 1992: Ord. 185 §§ 1, 2, 1983: Ord. 19 § 1, 1977)

2.08.080 Computation of meal allowance.

A. To be eligible for the meal allowance provided in Section 2.08.070, an employee (for the purposes of this section "employee" includes city-county local government officials, appointed members of city-county boards, commissions, councils, department directors and all other city-county employees) must have been in a travel status for more than three continuous hours. If eligible, an employee receives:

1. The morning meal allowance if in a travel status between the hours of 12:01 a.m. and ten a.m.;

2. The midday meal allowance if in a travel status between the hours of 10:01 a.m. and three p.m.; and

3. The evening meal allowance if in a travel status between the hours of 3:01 p.m. and twelve midnight;

4. Only one of the three meal allowances provided, if the travel was performed within the employee's assigned travel shift;

5. A maximum of two meal allowances if the travel begins before or was completed after the employee's assigned travel shift and the travel did not exceed twenty-four hours.

B. "Travel shift" is that period of time beginning one hour before and terminating one hour after the employee's normally assigned work shift. (Ord. 532 § 1, 1996; Ord. 19 § 2, 1977)

2.08.090 Mileage expense.

A. Every elected officer, appointed members of boards, commissions, councils, department directors, jurors, witnesses, and all other persons except the sheriff, who may be entitled to mileage when using their own automobiles in the performance of official duties are entitled to collect mileage for the distance actually traveled by automobile and no more unless specifically provided by law.

B. Where the individual is authorized to operate a privately owned vehicle even though a government owned or leased vehicle is available, a rate of three cents less per mile than the mileage rate allowed by the United States Internal Revenue Service for the next preceding year shall be paid.

C. Where a privately owned vehicle is used because a government owned or leased vehicle is not available for use or it is in the best interest of the governmental entity that a privately owned vehicle be used, a rate equal to the mileage allotment allowed by the United States Internal Revenue Service for the next preceding year shall be paid for the first one thousand miles and three cents per mile less for all miles thereafter traveled within a given calendar month.

D. The mileage allowance provisions of this section do not apply to judges of the district court.

E. Any employee (for the purposes of this section "employee" includes city-county local government officials, appointed members of city-county boards, commissions, councils, city-county department heads or directors and all other city-county local government employees) using a privately-owned vehicle for city-county business must carry automobile liability damage insurance in accordance with the provisions of Montana law.

1. The city-county reserves the right to require proof of automobile liability insurance for any privately-owned vehicle used for city-county business.

2. The city-county will not provide any physical damage insurance coverage or reimbursement for loss or damage to privately-owned vehicles used for city-county business, nor will the city-county pay any comprehensive or collision deductible applicable to a private automobile insurance policy.

F. The driver of a city-county vehicle or a privately owned vehicle used for city-county business must possess an appropriate current Montana driver's license applicable to the type of vehicle driven. (Ord. 532 § 2, 1996; Ord. 19 § 3, 1977)

2.08.100 Incidental expenses.

Actual amounts for other travel expenses such as baggage handling, business related telephone calls and registration fees will be reimbursed with appropriate receipts. (Ord. 532 § 3, 1996)

2.08.110 Transportation expense.

A. Common Carrier. Actual fares paid for air, bus and train transportation will be reimbursed with appropriate receipts. First-class fare will not be allowed and the most reasonable mode of transportation shall be used.

B. Local Transportation. Actual fares paid for taxicabs, airport limousines, local buses and street cars or light railway passenger transportation systems are classed as local transportation expense and will be reimbursed with appropriate receipts.

C. Rental Vehicles. Rental of vehicles is an allowable expenditure and will be reimbursed with appropriate receipts. (Ord. 532 § 4, 1996)

2.08.130 Reimbursement procedures.

A. Travel claims must be submitted for all travel reimbursement requests. Amounts spent in excess of maximum per diem allowances will not be reimbursed.

B. Travel claims shall be signed by the appropriate department director or head or board/commission/council chairperson and shall be signed by the officer, employee or board/commission/council member.

C. Travel claims must be submitted either every month or on a per-trip basis, but in no event no later than the last day of the month following the travel to be eligible for reimbursement.

D. Whenever outside agencies directly reimburse an officer, employee or a board/ commission/council member for travel or related costs and when such travel or travel related costs were also borne by the city-county, the officer, employee or board/commission/council member shall be required to reimburse the city-county either personally or by signing the outside agency reimbursement check over to the city-county within ten working days after receipt of the outside agency reimbursement. (Ord. 532 § 5, 1996)

2.08.140 Travel authorization.

A. All out-of-county travel for city-county business requires prior approval by the appropriate department head or board/commission/council chairperson.

B. Travel authorization requests are to be submitted to the appropriate department director or head or board/commission/council chairperson at least three weeks prior to the scheduled travel if a travel advance is required. Emergency travel advance requests must be approved by the chief executive. Persons making travel requests must attach available materials explaining the purpose of the travel, such as workshop or seminar brochures and agendas.

C. When more than one employee (as defined in Section 2.08.080) of the city-county is traveling to the same destination on the same date, every effort

should be made to coordinate the travel activities, including sharing transportation and lodging where appropriate.

D. Travel Claim Review. It is the duty and responsibility of each department head, and the respective chairperson of the applicable board, commission, or council to review and approve all claims for travel, including payment for meal expense, payment for transportation expense, payment for lodging expense and payment for mileage expense, whether for travel advance or travel reimbursement, in accordance with the provisions of this chapter.

E. If there is any conflict between the provisions of this chapter and reimbursement provisions in state law, the provisions of this chapter shall apply. (Ord. 532 § 6, 1996)

## Chapter 2.10

### PERSONNEL SYSTEM

#### Sections:

- 2.10.010 Purpose.
- 2.10.020 Scope.
- 2.10.030 Personnel system.
- 2.10.040 Procedures.
- 2.10.050 Administrative code.
- 2.10.060 Personnel department created?Powers and duties.
- 2.10.070 Personnel director position created?Powers and duties.
- 2.10.080 Personnel policy handbook.

#### 2.10.010 Purpose.

The purpose of this chapter is to establish a personnel system and employment policy to comply with Section 11.04 of the Amended Butte-Silver Bow Charter and to create a personnel department to organize, manage and control such policy and to create the position of personnel director to administer the department and to set forth powers and duties for the department and director. (Ord. 563 § 1, 1996)

#### 2.10.020 Scope.

This chapter sets out the method by which a system of hiring, supervision, promotion and discipline of employees will be accomplished, provides that the details of such hiring, supervision, promoting and discipline may be included within a local administrative code and provides that all such actions will be done fairly and equitably in compliance with applicable state and federal law. (Ord. 563 § 2, 1996)

#### 2.10.030 Personnel system.

There is established and created a city-county personnel system which shall (A) provide for a sound program of personnel administration and employee relations; (B) provide for hiring and promotion of employees on the basis of qualifications and merit; (C) provide for equitable compensation; and (D) assure fair and equal treatment of employees and applicants for employment in accordance with state and federal laws. (Ord. 563 § 3, 1996)

#### 2.10.040 Procedures.

The procedures of the personnel system shall include, but are not limited to the following: absence without leave, affirmative action, annual vacation leave, classification of employment, closure of government offices, code of ethics, disability and maternity leave, discipline and discharge, drug free workplace, education/conference/training, employee assistance program, employee

recordkeeping, employee workrules, Family and Medical Leave Act, equal opportunity, grievance procedure, group insurance benefits, handicapped persons' preference, holidays, jury duty and witness leave, layoff and recall, leave of absence without pay, military leave, new employee orientation, outside employment, overtime/compensatory time, pay grade/classification, pay periods/time sheets, performance appraisal, political activities (Hatch Act), probation, recruitment and selection, residency, resignation, safety and health, sexual harassment, sick leave, sick leave grant program, substance abuse, travel expenses, veterans employment preference, violence in the workplace, workers compensation insurance/leave. (Ord. 563 § 4, 1996)

2.10.050 Administrative code.

The policies to accommodate the procedures detailed in Section 2.10.040, as well as such other policies and procedures deemed necessary for an equitable personnel system shall be set forth in the Butte-Silver Bow Administrative Code. (Ord. 563 § 5, 1996)

2.10.060 Personnel department created--Powers and duties.

There is established a personnel department charged with the responsibility and administration of all personnel related, safety and health, and risk management functions of the government. (Ord. 563 § 6, 1996)

2.10.070 Personnel director position created--Powers and duties.

There is created in this section the position of personnel director, who under the authority established shall have the responsibility and the authority to: plan, direct and supervise the operations and activities of the department; develop goals, plans and measurements for the identification and evaluation of personnel needs; recommend and oversee implementation of personnel administration policies and regulations; advise department and division heads regarding employment, position classification, compensation, benefits, discipline of employees and related labor-management relations issues; administer employee benefits programs; oversee the preparation and maintenance of position classification and pay plans; administer and provide guidance for the implementation of employee performance evaluation programs; develop and administer employee training programs; maintain, update and communicate personnel policies and procedures to management, supervisory personnel and employees; participate in the collective bargaining process; administer day-to-day labor relations, including monitoring contract compliance, participation in the handling and resolving of employee grievances and coordination with management and union representatives regarding interpretation and application of union contract language; ensure that the city-county attains and remains in compliance with affirmative action, equal employment opportunity, fair labor standards, Americans with Disabilities Act and other local, state and federal guidelines and requirements; coordinate, control, administer and monitor group health insurance plan; manage the overall administration of the safety and risk management programs; and such other related duties as may be assigned. (Ord. 563 § 7, 1996)

2.10.080 Personnel policy handbook.

A handbook summarizing the provisions of the personnel system will be developed and distributed to all Butte-Silver Bow employees within one hundred eighty days of the effective date of the ordinance codified in this chapter. New employees will receive a copy of the policy handbook as part of the orientation process.

The handbook will be subject to revision and redistribution on a need-be basis as determined by the personnel director. (Ord. 563 § 8, 1996)



## Chapter 2.11

### FINANCE AND BUDGET SYSTEM

#### Sections:

- 2.11.010 Purpose.
- 2.11.020 Scope.
- 2.11.030 Finance and budget system.
- 2.11.040 Administrative code.
- 2.11.050 Finance and budget department created--Powers and duties.
- 2.11.060 Director of finance and budget created--Powers and duties.
- 2.11.070 Internal control policies and procedures manual.

#### 2.11.010 Purpose.

The purpose of this chapter is to establish a finance and budget system to comply with Sections 7.05 and 11.03 of the Amended Butte-Silver Bow Charter and to create a finance and budget department to organize, manage and control all the financial affairs of the city and county and to create the position of director of finance and budget to administer the department and to set forth powers and duties for the department and director. (Ord. 567 § 1, 1996)

#### 2.11.020 Scope.

This chapter describes the method by which a finance and budget system will be accomplished and be responsible for establishing and maintaining an internal control structure designed to ensure that the assets of the government are protected from loss, theft or misuse and to ensure that adequate accounting data are compiled to allow for the preparation of financial statements in conformity with generally accepted accounting principles. The internal control structure shall be designed to provide reasonable, but not absolute, assurance that these objectives are met. The concept of reasonable assurance recognizes that: (A) the cost of a control should not exceed the benefits likely to be derived; and (B) the valuation of costs and benefits requires estimates and judgments by the government. The finance and budget system must also ensure that an adequate internal control structure is in place to ensure and document compliance with applicable laws and regulations relating to programs and activities of the government. The structure shall also include budgetary controls to ensure compliance with legal provisions embodied in the annual appropriated budget approved by the council of commissioners. The level of budgetary control (i.e., the level at which expenditures cannot legally exceed the appropriated amount) is established as the total amount appropriated for each fund. (Ord. 567 § 2, 1996)

#### 2.11.030 Finance and budget system.

There is established and created a finance and budget system which shall (A) provide for a sound program of financial administration and management; (B) provide for the preparation of financial statements in conformity with generally accepted accounting principles; (C) provide for extensive budgetary, accounting and encumbrance controls; (D) provide for necessary administrative and management control structures to ensure and document compliance with applicable laws and regulations, including those related to federal and state financial assistance programs; (E) provide that any and all budgetary or financial administrative powers, duties, responsibilities or activities conferred or imposed upon cities or counties and their various appointed and elected officials by Title 7 of the Montana Code Annotated as the same may relate to the city and county of Butte-Silver Bow are transferred or delegated to the finance and budget system; and (F) provide that the city and county of Butte-Silver Bow

adopts the Montana Local Government Budget Act as set forth in Title 6, Chapter 6, Part 40, MCA. (Ord. 01-12 § 7, 2002: Ord. 567 § 3, 1996)

2.11.040 Administrative code.

The policies necessary to accommodate the procedures, accounting and internal control structures, and administrative and record keeping practices referred to in the ordinance codified in this chapter, as well as such other policies, procedures and controls deemed necessary for an adequate and efficient finance and budget system, shall be further described in detail in the Butte-Silver Bow Administrative Code. (Ord. 567 § 4, 1996)

2.11.050 Finance and budget department created--Powers and duties.

There is established a finance and budget department (department) charged with the responsibility and administration of all financial and budgetary activities, debt management, investment activities, administrative and information services functions of the local government. The department shall organize itself into the following divisions: (A) Finance, (B) budget, (C) treasury and (D) management information services. The specific duties, responsibilities, practices and procedures of each of these divisions shall be described in detail within the Butte-Silver Bow Administrative Code. (Ord. 567 § 5, 1996)

2.11.060 Director of finance and budget created--Powers and duties.

There is created in this section the position of finance and budget director, who under the authority established shall have the responsibility and the authority to: plan, direct and supervise the operations and activities of the department and its divisions; develop goals, plans and measurements for the identification and evaluation of the local government's needs to manage its financial affairs; recommend and oversee implementation of financial management and administration policies and regulations; prepare and present the local government's annual budget, manage the preparation of the local government's comprehensive annual financial report; advise and assist department and division heads regarding the management of their financial administrative affairs including budget preparation and execution, and other management information services needs; cash receipting and disbursements procedures, banking relations, debt issuance and management, investment purchases, sales and portfolio management; payroll processing and reporting; accounts payable, accounts receivable, maintaining a fixed asset system; and such other related financial or administrative tasks as may be assigned. (Ord. 567 § 6, 1996)

2.11.070 Internal control policies and procedures manual.

The finance and budget department will maintain and periodically update the Butte-Silver Bow internal control policies and procedures manual through its inclusion within the Butte-Silver Bow Administrative Code. (Ord. 567 § 7, 1996)

Chapter 2.12

COUNCIL OF COMMISSIONERS

Sections:

- 2.12.010 Purpose and scope.
- 2.12.020 Term.
- 2.12.030 Selection.
- 2.12.040 Chair vacancies.

- 2.12.010 Purpose and scope.

The purpose of this chapter is to establish a term of office for the chairman and vice-chairman of the council of commissioners and for the chairman and vice-chairman of standing committees; to establish an election procedure for the selection of the chairman and vice-chairman of the council of commissioners; and to provide a procedure for the appointment of chairman and vice-chairman of standing committees. (Ord. 58 § 1, 1978)

2.12.020 Term.

The term of office for the chairman and vice-chairman of the council of commissioners and for the standing committee chairman and vice-chairman and members shall be for two years. Each term shall begin the first Monday in January of each odd-numbered year. (Ord. 58 § 2, 1978)

2.12.030 Selection.

A. The newly elected and retained members of the Butte-Silver Bow council of commissioners shall, prior to the thirtieth of November of each even-numbered year, meet in an organizational session to select a nominee for council chairman and vice-chairman for the next two-year term of the council.

B. A committee on committees shall recommend all members of the standing committees. The committee on committees shall be composed of the council chairman-elect, vice-chairman-elect and another council member whose name is to be drawn from the names of the members of the incoming council. The committee on committees shall meet and recommend appointments to the standing committees. A report of its actions shall be filed with the clerk and recorder by December 30th of each even-numbered year.

C. At the first meeting of the council of commissioners on or after the first Monday in January in each odd-numbered year the council shall elect a chairman and vice-chairman and shall confirm the appointment of members of the standing committees.

D. Neither the chairman nor vice-chairman of the council of commissioners shall be elected to more than two consecutive terms in their respective positions. The chairman of the council of commissioners shall not be appointed as chairman of any standing committee except the committee on committees while he/she is chairman of the council of commissioners.

E. The chairman of the council of commissioners shall preside at all meetings of the committee of the whole and in his/her absence or inability to act, the vice-chairman shall preside. In the absence of the chairman of the judiciary committee, the chairman of the finance and budget committee shall preside.

F. The chairman of each of the standing committees shall preside at all meetings of the respective standing committee and in his/her absence or inability to act, the vice-chairman shall preside. In the absence of the vice-chairman, the ranking committee member shall preside. (Ord. 395 § 1, 1991: Ord. 58 § 3, 1978)

2.12.040 Chair vacancies.

A. In case of the removal of the council chairman from office or of his/her death or resignation, the vice-chairman shall become chairman. The vice-chairman shall serve as chairman of the council of commissioners until the committee on committees nominates and the council confirms a new chairman of the council of commissioners.

B. In case of the removal of any of the standing committee chairman from office or of his/her death or resignation, the vice-chairman of the respective standing committee shall become committee chairman. The vice-chairman of the respective standing committee shall become committee chairman. The vice-chairman shall serve as chairman of the respective standing committee until the committee on committees

nominates and the council confirms a new chairman of the respective standing committee.

C. Whenever there is a vacancy in the position of vice-chairman of the council, the committee on committees shall nominate a vice-chairman who shall take office upon confirmation by a majority vote of the council of commissioners.

D. Whenever there is a vacancy in the office of committee vice-chairman, the chairman of the council shall appoint a committee vice-chairman. (Ord. 395 § 2, 1991; Ord. 58 § 4, 1978)

## Chapter 2.14

### LAND DIVISION

#### Sections:

- 2.14.010 Purpose.
- 2.14.020 Scope.
- 2.14.030 Land records system.
- 2.14.040 Procedures.
- 2.14.050 Administrative Code.
- 2.14.060 Land division created? Powers and duties.
- 2.14.070 Land division director? Powers and duties.

#### 2.14.010 Purpose.

The purpose of this chapter is to establish a land records system to comply with Section 11.06 of the amended Butte-Silver Bow Charter and to create a land division within the clerk and recorder's office to organize, manage and control all the land records and related duties and functions including the sale of city-county owned property in accordance with Butte-Silver Bow Municipal Code Chapters 3.20, 3.24, 3.28 and 3.36 to combine resources for improving the efficiency and effectiveness of land information to facilitate decisions on land issues, and to create the position of land division director to administer the division and to set forth powers and duties for the division and director. (Ord. 99-1 § 1, 1999)

#### 2.14.020 Scope.

This chapter describes the method by which a land records system will be accomplished and be used to establish and maintain an internal control structure designed to ensure that all land records are protected from loss, theft or misuse and to ensure that adequate data are compiled and maintained. The internal control structure shall be designed to provide reasonable, but not absolute, assurance that these objectives are met. The land records system must also ensure that an internal control structure is in place to ensure and document compliance with applicable laws and regulations relating to programs and activities of the city-county. (Ord. 99-1 § 2, 1999)

#### 2.14.030 Land records system.

There is established and created a land records system which shall:

A. Provide a single point of contact for public access to information related to land records;

B. Provide and use automated tools to manage the voluminous land records;

C. Furnish timely and accurate land information to facilitate decisions on land issues; and

D. Allow for timely and efficient data sharing within all offices and departments of the city-county. (Ord. 99-1 § 3, 1999)

2.14.040 Procedures.

The procedures of the land record system shall include, but are not limited to, the following: the land records system must have an adequate internal control structure in place to ensure survey and deed document compliance with the Montana Platting and Subdivision Act and also with the Montana Surveying Laws and Regulations. The system shall also ensure an adequate internal control structure to track the transfer of land ownership for input into the state of Montana Department of Revenue (Montana Ownership Database System) (MODS) for tax assessment purposes. (Ord. 99-1 § 4, 1999)

2.14.050 Administrative Code.

The policies necessary to accommodate the procedures, internal control structures and administrative and record keeping practices referred to in this chapter, as well as such other policies, procedures and controls deemed necessary for an adequate and efficient land records system, shall be further described in detail in the Butte-Silver Bow Administrative Code. (Ord. 99-1 § 5, 1999)

2.14.060 Land division created--Powers and duties.

There is established a land division within the clerk and recorder's office, which division is charged with the responsibility and administration of all land records and the transfer of property owned by the city-county. The division shall organize itself into the following sections:

- A. Cadastral mapping;
- B. Land ownership records management;
- C. City-county owned property transfers; and
- D. Special improvement district management.

The specific duties, responsibilities, practices and procedures of each of these sections shall be described in detail within the Butte-Silver Bow Administrative Code. (Ord. 99-1 § 6, 1999)

2.14.070 Land division director--Powers and duties.

There is created in this section the position of land division director, who under the authority established by this chapter, shall have the responsibility and the duty to:

- A. Plan, direct and supervise the operations and activities of the division;
- B. Develop goals, plans and measurements for the identification and evaluation of the city-county's need to manage its land record functions and determine the administrative and technical support needs and services of the land records system;
- C. Plan, organize, direct, supervise and coordinate the land records operations and all maintenance activities of the land records system;
- D. Direct and supervise the personnel responsible for special improvement district assessment and allocations to parcels within the city-county;
- E. Review all land surveys for the city-county and coordinate with the duties of the examining land surveyor;
- F. Supervise the process to verify ownership prior to recording land transfers and related documents;
- G. Supervise the automation of land records and direct the maintenance of the cadastral data files and digital land records;
- H. Ensure that the city-county remains in compliance with all local, state and federal guidelines and requirements applicable to land records;

I. Direct and supervise the process to transfer property from and to the city-county and such other related land records system tasks as may be assigned. (Ord. 99-1 § 7, 1999)

## Chapter 2.16

### FIRE DEPARTMENT

#### Sections:

- 2.16.010 Created--Composition.
- 2.16.020 Jurisdictional area designated.
- 2.16.030 Chief executive--Position designated--Powers.
- 2.16.040 Director of fire services--Powers and authority generally.
- 2.16.050 Director of fire services--Administrative duty.
- 2.16.060 Fire commission--Implementation of standards for applicant examinations.
- 2.16.070 Fire commission--Keeping of records and files.
- 2.16.080 Director of fire services--Responsible for fire apparatus and property.
- 2.16.090 Director of fire services--Investigations.
- 2.16.100 Director of fire services--Issuance and register of identification cards.
- 2.16.110 Department of fire services--Regulation of uniforms and badges.
- 2.16.130 Director of fire services-- Authority and command over paid firefighters.
- 2.16.140 Director of fire services-- Suspension authority over paid firefighters.
- 2.16.150 Director of fire services-- Certification of payrolls.
- 2.16.160 Volunteer chiefs--Monthly report of calls.
- 2.16.170 Chiefs--Duties generally.
- 2.16.180 Chiefs--Annual examination of fire apparatus, engine and firehouses.
- 2.16.190 Chiefs--Monthly examination of buildings, vehicles and apparatus-- Repair of defects or injuries.
- 2.16.200 Chiefs--Preparation of preliminary budget.
- 2.16.210 Paid assistant chiefs--Creation of position and rank.
- 2.16.212 Paid assistant chiefs--Duties and responsibilities.
- 2.16.215 Paid assistant chiefs--Authority and command.
- 2.16.220 Paid assistant chief/administration--Suspension authority.
- 2.16.230 Paid battalion chief--Authority and duties generally.
- 2.16.240 Paid battalion chief--Suspension authority.
- 2.16.250 Paid captain--Duties generally.
- 2.16.260 Paid captain--Authority.
- 2.16.290 Paid firefighters--Leadership.
- 2.16.300 Promotion of paid firefighters--Probationary period.
- 2.16.310 First director of fire services--Appointment of successor--Directors of fire services.
- 2.16.320 Appointment--Paid members.
- 2.16.321 Appointment--Paid members--Examining board.
- 2.16.327 Appointment--Paid members--Terms.
- 2.16.330 Appointment--Volunteer members.
- 2.16.340 Appointment--Prerequisites.
- 2.16.350 Application for employment--Required.
- 2.16.360 Application for employment--Documents required.
- 2.16.370 Applicants and members of paid fire department--Requirements.
- 2.16.380 Applicants--Written examination, physical performance and agility test, oral examination and background and reference check.

2.16.390 Applicants--Physical examination and physical qualifications.  
 2.16.391 Appointment--Paid members--Functional capacity assessment.  
 2.16.395 Applicants--Psychological evaluation.  
 2.16.400 Applicants--False representations.  
 2.16.410 Promotions--Rules.  
 2.16.420 Promotions--Examining board.  
 2.16.430 Promotions--Eligibility for examination.  
 2.16.440 Promotions--Purpose of examinations.  
 2.16.450 Promotions--Attendance at written examination.  
 2.16.460 Promotions--Rules for examination.  
 2.16.470 Promotions--Correction and scoring of examination.  
 2.16.480 Promotions--Evaluation of examinees.  
 2.16.490 Promotions--Oral examination.  
 2.16.500 Promotions--Use of personnel files for evaluation.  
 2.16.510 Promotions--Tabulation of promotion points.  
 2.16.520 Promotions--Use of order of promotion list.  
 2.16.530 Suspensions and hearing before fire commission.  
 2.16.540 Sick leave.  
 2.16.550 Reduction of force in reverse order of appointment.  
 2.16.560 Exemption of members.  
 2.16.570 Transfers.  
 2.16.580 Members to be furnished with rules and regulations.  
 2.16.590 Rules and regulations governing volunteer department.  
 2.16.600 Badges.  
 2.16.610 Supervision of paid department.  
 2.16.620 Members' duty to prevent handling of department equipment.  
 2.16.630 Availability for performance of emergency duties.  
 2.16.640 False alarms.  
 2.16.650 Police powers of fire department.  
 2.16.660 Obedience to fire officers during fires required.  
 2.16.670 Emergency measures during fires.  
 2.16.680 Right-of-entry for inspections.  
 2.16.690 Limitation on liability of persons.  
 2.16.700 Entire devotion of time.  
 2.16.710 Dispatch procedures for areas outside fire protection services district.  
 2.16.720 Alarm communications center?Dispatch of units?Telephone number.  
 2.16.730 Communication between paid and volunteer departments.  
 2.16.740 Volunteer departments to respond to calls only within individual fire protection services district.  
 2.16.750 Alarm defined.  
 2.16.760 First and second alarm fires?Officer in charge.  
 2.16.770 First and second alarm fires?Response procedure within fire protection services district.  
 2.16.780 First and second alarm fires?Response procedure within former corporate limits of Butte.  
 2.16.790 Third alarm fires?Officer in command?Response procedure.  
 2.16.800 Medical emergencies?Response procedure.  
 2.16.810 Hazardous material incidents?Response procedure.

2.16.010 Created--Composition.

There is established and created a department to be known as the Butte-Silver Bow fire department, comprised of both paid and volunteer members. (Ord. 270 § 1 (part), 1986: Ord. 22 § 1, 1977)

2.16.020 Jurisdictional area designated.

A. In accordance with the requirements of Section 7.03(a) of the Charter of Butte-Silver Bow, as amended, there is established the Butte-Silver Bow fire department composed of the paid fire department and the volunteer fire departments.

B. In accordance with the requirements of Section 7.03(g)(1) of the Charter of Butte-Silver Bow, as amended, there is established a district for fire protection services the boundaries of which shall be as follows:

Beginning at the northwest corner of Section 2, Township (T) 3 North (N), Range (R) 8 West (W); thence easterly to the northeast corner of Section 5, T3N R7W; thence southerly to the northwest corner of Section 9, T3N, R7W; thence easterly to the northeast corner of Section 10, T3N, R7W; thence southerly to the southeast corner of Section 22, T2N, R7W; thence westerly to the southwest corner of Section 19, T2N, R7W; thence northerly to the northwest corner of Section 19, T2N, R7W; thence westerly to the southwest corner of Section 14, T2N, R8W; thence northerly to the southwest corner of Section 35, T3N, R8W; thence westerly to the southwest corner of Section 34, T3N, R8W; thence northerly to the northwest corner of Section 27, T3N, R8W; thence westerly to the southwest corner of Section 20, T3N, R8W; thence northerly to the northwest corner of Section 17, T3N, R8W; thence easterly to the northwest corner of Section 14, T3N, R8W; thence northerly to the point of beginning. Within this district there shall be a uniform tax levy for fire protection services.

C. In accordance with the requirements of Section 7.03(g)(2) of the Charter of Butte-Silver Bow, as amended, beginning July 1, 1998 there is established a method for levying taxes for fire protection and emergency services in those areas of the city-county (excluding Walkerville) outside of the uniform fire district (described in subsection B of this section) as follows:

1. All property within the city-county, except that property within the town of Walkerville and further excepting that property within tax increment financing industrial district No. 2 (TIFID No. 2) as set forth in subsection (C)(2) of this section, will be assessed ten mills annually for fire protection and emergency services. All property within the uniform fire district described in subsection B of this section will receive a ten mill reduction in the uniform tax levy required by amended Charter Section 7.03(g)(1) to compensate for this additional city-county ten mill levy. All monies raised from this ten mill levy shall be placed in the uniform tax levy fund referred to in subsection B of this section.

2. All property within TIFID No. 2, will be assessed one mill for fire protection and emergency services. The city-county is authorized to contract with the TIFID Board to provide these fire protection and emergency services through the normal city-county fire department structure. (Ord. 98-8 § 1, 1998: Ord. 571 § 1, 1996: Ord. 551 § 1, 1996: Ord. 15 § 1, 1977)

2.16.030 Chief executive--Position designated--Powers.

The chief executive shall be the head of the Butte-Silver Bow fire department; he shall appoint paid members, promote paid members and may dismiss members for neglect of duty or for violation of fire department rules in the manner provided by law. (Ord. 55 § 1, 1978)

2.16.040 Director of fire services--Powers and authority generally.

The director of fire services shall be responsible for the administrative coordination of the paid and volunteer fire department personnel, fire prevention and code enforcement and shall have entire command and control over all persons connected with the fire department. The director of fire services shall possess full power and authority over the organization, government and discipline of the paid and volunteer fire departments and may from time to time establish such rules and regulations subject to the approval of the chief



executive. The rules and regulations shall be submitted to the council of commissioners for comment prior to adoption. The director of fire services may suspend any member of the Butte-Silver Bow fire department for neglect of duty or a violation of any rules or regulations of the Butte-Silver Bow fire department, subject to appropriate proceedings before the fire commission. (Ord. 571 § 2, 1996: Ord. 551 § 2, 1996: Ord. 55 § 2, 1978)

2.16.050 Director of fire services--Administrative duty.

The director of fire services shall be responsible for the administration of the Butte-Silver Bow fire department, including but not restricted to the areas of fire prevention, fire suppression and enforcement of fire codes. (Ord. 571 § 3, 1996: Ord. 551 § 3, 1996: Ord. 270 § 1 (part), 1986: Ord. 22 § 2(A), 1977)

2.16.060 Fire commission--Implementation of standards for applicant examinations.

The fire commission shall be responsible for the development and implementation of standards for all examinations of applicants, both for initial appointment of paid members to the fire department and for promotion of members within the Butte-Silver Bow fire department. (Ord. 499 § 1, 1995: Ord. 270 § 1 (part), 1986: Ord. 22 § 2(BB), 1977)

2.16.070 Fire commission--Keeping of records and files.

All records and files pertaining to testing of members of the paid fire department shall be kept and maintained by the fire commission, or its designated representative. All records and files of the fire commission shall be public except those of a confidential nature, or as otherwise provided by law. (Ord. 499 § 2, 1995: Ord. 270 § 1 (part), 1986: Ord. 22 § 2(C), 1977)

2.16.080 Director of fire services--Responsible for fire apparatus and property.

The director of fire services shall have charge of all fire apparatus and real property of the Butte-Silver Bow fire department. (Ord. 571 § 4, 1996: Ord. 551 § 4, 1996: Ord. 55 § 3, 1978)

2.16.090 Director of fire services--Investigations.

The director of fire services (or his/her designee) shall investigate the cause of all fires which occur within the Butte-Silver Bow fire protection services district as soon as possible after they occur, and keep a record of such investigations on file. (Ord. 571 § 5, 1996: Ord. 551 § 5, 1996: Ord. 55 § 4, 1978)

2.16.100 Director of fire services--Issuance and register of identification cards.

The director of fire services may issue to news reporters, upon the written request of their editors or station managers, and to insurance agents, upon the request of any insurance agency, identification cards which in form and appearance shall be such as may be designated and when such identification cards have been issued, shall keep a register thereof containing the numbers, names and addresses and such other details as shall be necessary to identify the holders thereof, and each applicant shall pay the treasurer the sum of five dollars for each identification card. (Ord. 571 § 6, 1996: Ord. 551 § 6, 1996: Ord. 55 § 5, 1978)

2.16.110 Department of fire services--Regulation of uniforms and badges.

The director of fire services shall make suitable regulations under which the officers and firefighters of the fire department shall be required to wear appropriate uniform and badge by which the authority and relations of such officers and firefighters in the department may be known. (Ord. 571 § 7, 1996: Ord. 551 § 7, 1996: Ord. 55 § 6, 1978)

2.16.130 Director of fire services-- Authority and command over paid firefighters.

The director of fire services has authority and command of all the paid members of the Butte-Silver Bow fire department and is the incident commander as set out in the Butte-Silver Bow disaster and emergency services plan. (Ord. 571 § 8, 1996: Ord. 415 § 1, 1991: Ord. 55 § 8, 1978)

2.16.140 Director of fire services-- Suspension authority over paid firefighters.

The director of fire services may suspend a paid assistant chief, paid battalion chief, paid captain or any paid firefighter for neglect of duty or a violation of any rules and regulations of the Butte-Silver Bow fire department. (Ord. 571 § 9, 1996: Ord. 44 § 15, 1978)

2.16.150 Director of fire services-- Certification of payrolls.

The director of fire services shall certify all payrolls against the government on behalf of the paid fire department. (Ord. 571 § 10, 1996: Ord. 55 § 9 (part), 1978)

2.16.160 Volunteer chiefs--Monthly report of calls.

The volunteer chiefs of the Butte-Silver Bow fire department shall each month report in writing to the director of fire services an accurate list of all calls, including false alarms, resuscitation, and other emergency calls that have taken place within their jurisdiction during the preceding month, including the cause thereof, if known, and the number and description of the buildings destroyed or damaged. The director of fire services shall compile a similar list for the paid fire department and shall prepare a monthly report setting forth all of the information described above. (Ord. 571 § 11, 1996: Ord. 55 § 9 (part), 1978)

2.16.170 Chiefs--Duties generally.

The chiefs of the Butte-Silver Bow fire department, upon request, shall assist the fire marshal or training officer and shall perform such other duties as may be prescribed by the director of fire services. (Ord. 571 § 12, 1996: Ord. 55 § 10, 1978)

2.16.180 Chiefs--Annual examination of fire apparatus, engine and firehouses.

The paid chief or volunteer chiefs of the Butte-Silver Bow fire department shall at least once each year examine the condition of all fire apparatus, engine houses and firehouses within their jurisdiction and report the same to the director of fire services on or about May 1st of each year. (Ord. 55 § 11, 1978)

2.16.190 Chiefs--Monthly examination of buildings, vehicles and apparatus-- Repair of defects or injuries.

The various chiefs of the Butte-Silver Bow fire department and the paid assistant chief designated by the director of fire services shall at least once a month, or more often if required by the director of fire services, carefully examine the condition of all buildings, vehicles and apparatus within their jurisdiction used by the fire department and see that the same are at all times in good repair and condition, and shall report on a timely basis to the director

of fire services any defect or injury to the same or any repairs, attention, alteration or addition required, and shall with the consent of the director of fire services cause all necessary repairs to be made without delay and report such repairs to the director of fire services. (Ord. 571 § 13, 1996: Ord. 551 § 8, 1996: Ord. 55 § 12, 1978)

2.16.200 Chiefs--Preparation of preliminary budget.

The various chiefs of the Butte-Silver Bow fire department shall prepare and submit to the director of fire services on or before March 1st of each year a preliminary budget including an estimate of the expenses in their jurisdiction of providing for and maintaining the fire department in their jurisdiction during the fiscal year, which preliminary budget shall be in the format established by the budget administrator. (Ord. 571 § 14, 1996: Ord. 551 § 9, 1996: Ord. 55 § 14, 1978)

2.16.210 Paid assistant chiefs--Creation of position and rank.

There is created the position and rank of assistant chief/administration and the position and rank of assistant chief/fire prevention within the paid fire department. (Ord. 415 § 2, 1991: Ord. 55 § 13, 1978)

2.16.212 Paid assistant chiefs--Duties and responsibilities.

The paid assistant chiefs shall assist the director of fire services and have the following responsibilities:

A. The assistant chief/administration is in charge of administration, training and emergency medical services and is the incident operations officer for the paid fire department.

B. The assistant chief/fire prevention is the fire marshal, and is in charge of fire/arson investigation for the paid fire department. (Ord. 571 § 15, 1996: Ord. 415 § 3, 1991)

2.16.215 Paid assistant chiefs--Authority and command.

In the event the director of fire services is absent or otherwise unable to serve, the paid assistant chief/administration shall have authority and command of all the paid members of the Butte-Silver Bow fire department and shall be incident commander as set out in the Butte-Silver Bow disaster and emergency services plan. (Ord. 571 § 16, 1996: Ord. 415 § 4, 1991)

2.16.220 Paid assistant chief/administration--Suspension authority.

The paid assistant chief/administration may suspend a paid battalion chief, paid captain or any paid firefighter for neglect of duty or for violation of any rules and regulations of the fire department. (Ord. 415 § 5, 1991: Ord. 55 § 16, 1978)

2.16.230 Paid battalion chief--Authority and duties generally.

The paid battalion chiefs of the Butte-Silver Bow fire department shall be shift commanders, and shall assume command upon arrival at any fire or other incident within their jurisdiction until relieved by a higher authority. They shall enforce all rules and regulations and assume such other duties as may be assigned by the director of fire services or assistant

chief/administration of the Butte-Silver Bow fire department. (Ord. 571 § 17, 1996: Ord. 415 § 6, 1991: Ord. 55 § 20 (part), 1978)

2.16.240 Paid battalion chief--Suspension authority.

A paid battalion chief may suspend a paid captain, or any paid firefighter for neglect of duty, or a violation of any rules and regulations of the fire department. (Ord. 55 § 17, 1978)

2.16.250 Paid captain--Duties generally.

The paid captains of the Butte-Silver Bow fire department shall assist the battalion chiefs in their duties and shall assume command of the shift in the absence of the battalion chief. The paid captains shall assume such other duties as the chief, assistant chief/administration or battalion chief may assign. (Ord. 415 § 7, 1991: Ord. 55 § 20 (part), 1978)

2.16.260 Paid captain--Authority.

A paid captain shall have authority over the firefighters under his jurisdiction. (Ord. 55 § 18, 1978)

2.16.290 Paid firefighters--Leadership.

The paid firefighters will work directly under the leadership of the battalion chiefs and captains of the Butte-Silver Bow fire department. (Ord. 415 § 8, 1991: Ord. 55 § 21, 1978)

2.16.300 Promotion of paid firefighters--Probationary period.

All paid firefighters of the Butte-Silver Bow fire department who receive promotions shall serve a six-month probationary period and may be returned to the original rank by the chief executive anytime before the end of the six-month probationary period. (Ord. 415 § 9, 1991: Ord. 55 § 26, 1978)

2.16.310 First director of fire services--Appointment of successor--Directors of fire services.

A. The person serving as paid fire chief on July 1, 1996 shall become the first director of fire services and shall be responsible for the administrative coordination and combination of the paid and volunteer fire departments, fire prevention and code enforcement, in accordance with the provisions of Section 7.03(f) of the Butte-Silver Bow Charter, as amended.

B. All successors to the first director of fire services shall be tested by the fire commission as provided in Section 7.03(c) of the Butte-Silver Bow Charter, as amended.

C. The chief executive shall name, and with the consent of the council of commissioners, shall appoint all successor directors of fire services. (Ord. 571 § 18, 1996: Ord. 270 § 1 (part), 1986: Ord. 22 § 3 (part), 1977)

2.16.320 Appointment--Paid members.

All paid members of the Butte-Silver Bow fire department shall be appointed by the chief executive and confirmed by the council of commissioners. The appointees shall meet the requirements as provided herein and below. Each appointee shall serve a probationary period of six months. The chief executive may at any time before confirmation or the end of the probationary period revoke such appointment. After the end of the probationary period and within thirty days thereafter, the appointment of such applicant shall be submitted to the council of commissioners by the chief executive. (Ord. 270 § 1 (part), 1986: Ord. 22 § 3(A), 1977)

2.16.321 Appointment--Paid members--Examining board.

A fire department appointment examining board is established consisting of the fire commission. The examining board shall require all paid firefighter applicants to submit an application for such position to the Butte-Silver Bow personnel department and undergo written examination, for the purpose of determining qualified candidates for appointment to the paid fire department. Those candidates who achieve a passing score on the written examination will be required to undergo the following: (a) physical ability test, (b) background and reference check, and (c) an oral interview. The written examination and physical

ability test will be administered by the Montana Firefighters' Testing Consortium. The background and reference check and oral interview will be administered by the fire commission and those successfully completing all of the instruments shall be certified in rank numerical order as eligible for appointment. (Ord. 02-18 § 1, 2002: Ord. 499 § 3, 1995: Ord. 383 § 1, 1990)

2.16.327 Appointment--Paid members--Terms.

All appointments of paid members to the fire department shall be made by the chief executive and confirmed by the council of commissioners, but no such appointment shall be made until the applicant has been certified as eligible for appointment by the examining board. When requested to do so, the examining board shall certify to the chief executive the names of the three top candidates on the order of appointment list for the particular position to be filled. After receiving the names of the three top candidates from the examining board, the chief executive may make a conditional appointment of any one of such persons to the paid fire department. The final appointment is conditional upon the successful completion as determined by the chief executive of the following: (a) psychological evaluation, (b) physical examination, (c) visual acuity/color perception test, and (d) an estimated functional capacity assessment. Once a final appointment is made, the candidate shall have fourteen calendar days to either accept or reject the appointment. Each appointee shall serve a probationary period of six months. The chief executive may at any time before confirmation or the end of the probationary period revoke such appointment. After the end of the probationary period and within thirty days thereafter, the appointment of such applicant shall be submitted to the council of commissioners by the chief executive. (Ord. 499 § 5, 1995: Ord. 383 § 3, 1990)

2.16.330 Appointment--Volunteer members.

All volunteer members of the Butte-Silver Bow fire department shall be appointed according to the bylaws and constitution of the individual volunteer fire protection services district in accordance with the rules and regulations of each individual volunteer district and the council of commissioners and the chief executive shall be notified of each appointment, promotion and retirement of a member. (Ord. 270 § 1 (part), 1986: Ord. 22 § 3(B), 1977)

2.16.340 Appointment--Prerequisites.

Terms: All appointment of paid members to the fire department shall be made by the chief executive and confirmed by the council of commissioners, but no such appointment shall be made until an application for such position on the paid fire department has been filed with the personnel department. All applications shall be referred to the fire commission. After such applicant has successfully passed all examinations required to be held by the fire commission, a certificate of qualification of appointment as a paid firefighter shall be issued by the fire commission. (Ord. 499 § 6, 1995: Ord. 270 § 1 (part), 1986: Ord. 22 § 4(F), 1977)

2.16.350 Application for employment--Required.

Applicants for employment as members of the paid fire department shall submit a written application in accordance with forms provided by the fire commission. (Ord. 270 § 1 (part), 1986: Ord. 22 § 4(A), 1977)

2.16.360 Application for employment--Documents required.

Before an applicant may be certified for testing by the fire commission, the following documents must be attached to the application form:

- A. Birth certificate;
- B. High school diploma or an acceptable certificate of equivalency;

C. Military discharge record if applicant has served in any of the armed forces. (Ord. 270 § 1 (part), 1986: Ord. 22 § 4(B), 1977)

2.16.370 Applicants and members of paid fire department--Requirements.

Applicants for employment as firefighters and confirmed members of the paid fire department must meet the following requirements:

- A. Be a high school graduate or possess a general equivalency diploma;
- B. Not less than eighteen years of age and shall not be more than thirty-four years of age at the time of original appointment;
- C. Be a citizen of the United States;
- D. Have an honorable discharge if the person served in any of the armed forces of the United States;
- E. Have successfully passed all of the required examinations;
- F. Not have been convicted of a felony or other crime involving moral turpitude;
- G. Possess a valid driver's license from state of residence at time of application and have no restrictions or traffic infractions which would preclude obtaining a Montana Driver's license immediately upon appointment; and
- H. Meet all qualification standards as set forth by Part 41 of Chapter 33 of Title 7, MCA. (Ord. 02-18 § 3, 2002; Ord. 99-4 § 1, 1999; Ord. 571 § 19, 1996: Ord. 551 § 10, 1996: Ord. 499 § 7, 1995; Ord. 270 § 1 (part), 1986: Ord. 179 § 1, 1982; Ord. 22 § 4(C), 1977)

2.16.380 Applicants--Written examination, physical performance and agility test, oral examination and background and reference check.

A. Applicants must present themselves at a time and place for such written examination as shall be drawn and given as publicly noticed by the Montana Firefighters' Testing Consortium.

B. Applicants who successfully pass such written examination to the satisfaction of the Montana Firefighters' Testing Consortium must present themselves at a publicly noticed time and place for the physical ability test. Such test shall be drawn and given by the Consortium.

C. The Montana Firefighters' Testing Consortium shall determine the above testing procedures, including but not limited to: the intervals at which the tests will be offered; the location of the tests; the passing scores; the number of candidates who will take part in the procedures; and the types of tests used.

D. Applicants who successfully pass both the written test and physical ability test to the satisfaction of the Montana Firefighters' Testing Consortium are eligible for an oral interview as shall be drawn and given by the fire commission. Eligibility criteria to participate in the interview will be determined by the commission and those to be interviewed will receive written notification of such interview.

E. Applicants eligible for inclusion on the eligibility list shall be required to undergo a background and reference check to be conducted by the fire commission or its designated representative. Such checks will be conducted in conformance with the rules and procedures established by the fire commission. (Ord. 02-18 § 4, 2002: Ord. 499 § 8, 1995: Ord. 270 § 1 (part), 1986: Ord. 22 § 4(D), (E), 1977)

2.16.390 Applicants--Physical examination and physical qualifications.

Once a conditional appointment is made by the chief executive, persons eligible for appointment to the paid fire department shall have passed a physical examination by a physician licensed to practice in the state of Montana. The cost of the examination will be paid by the Butte-Silver Bow government. The physician shall make a report of his/her findings. The report shall disclose the applicant's ability to perform the physical work usually

required of a firefighter in the performance of his/her duty and in addition thereto shall point out any variances or disabilities. The physician in making such examination and report shall detail the results of testing eyesight in the following particulars:

A. Indicating the sharpness of vision, (visual acuity) and ability to recognize color;

B. Eyesight must be correctible to 20/20 with glasses and with corrected vision to be able to drive;

C. In addition to the test for sharpness of eyesight and color blindness, the examining physician shall examine the eyes to make sure they are free from disease or possible condition that might lead to the rapid deterioration of the eyesight;

D. Applicants who are red-green color blind shall be rejected. The physician shall state if the candidate has any other defects which would seriously impair his efficiency on the job. (Ord. 02-18 § 5, 2002; Ord. 449 § 9, 1995; Ord. 270 § 1 (part), 1986; Ord. 22 § 4(H), 1977)

#### 2.16.391 Appointment--Paid members--Functional capacity assessment.

Once a conditional appointment is made by the chief executive, the examining board shall require eligible candidates to undergo a functional capacity assessment. The functional capacity assessment shall be performed at local government expense by a physician licensed to practice in Montana. The functional capacity assessment shall determine the physical ability of the candidate to perform the duties of a paid firefighter. Each candidate must be found physically fit and able to perform the duties of a paid firefighter to be considered for appointment. (Ord. 02-18 § 6, 2002)

#### 2.16.395 Applicants--Psychological evaluation.

Once a conditional appointment is made by the chief executive, the candidate will be required to undergo psychological testing or psychiatric examination as may be required by the fire commission to determine his/her emotional fitness for fire protection work. The cost of the psychological evaluation will be paid by the Butte-Silver Bow government. The candidate should be found emotionally mature and of stable disposition. (Ord. 499 § 10, 1995; Ord. 270 § 1 (part), 1986; Ord. 22 § 4(I), 1977)

#### 2.16.400 Applicants--False representations.

If at any time after appointment or confirmation there are reasonable grounds to believe that the applicant made representations in his written application which were wilfully false, and if such representations were such as were material to his employment, charges will be filed before the fire commission for removal of such member from the paid fire department. If such representation is of such nature as would not have been material to employment, charges may be filed before the fire commission for appropriate disciplinary action. (Ord. 270 § 1 (part), 1986; Ord. 22 § 4(G), 1977)

#### 2.16.410 Promotions--Rules.

All promotions shall be governed by the rules set forth in Sections 2.16.420 through 2.16.520. (Ord. 270 § 1 (part), 1986; Ord. 22 § 5 (part), 1977)

#### 2.16.420 Promotions--Examining board.

An examining board is established consisting of the fire commission. The examining board shall require written and oral examinations for the purpose of promotion. Such examinations shall relate to the duties and functions of the various ranks in the fire department. (Ord. 270 § 1 (part), 1986; Ord. 22 § 5(A), 1977)

2.16.430 Promotions--Eligibility for examination.

A member must have completed the following number of years of service in the paid fire department to be eligible for the following specified promotions in rank: Five years of service for promotion to captain; eight years of service for promotion to battalion chief and ten years of service for promotion to assistant chief. All persons who qualify by reason of eligibility shall be certified in writing to the examining board at the time and place of such examination. After receiving proper certification, those persons shall file with the examining board a written application to be eligible to take such examination. (Ord. 270 § 1 (part), 1986: Ord. 22 § 5(B), 1977)

2.16.440 Promotions--Purpose of examinations.

All examinations shall relate to those matters which in the opinion of the examining board fairly test the relative capacity and fitness of the persons examined to perform the duties of the position to which they seek promotion. (Ord. 270 § 1 (part), 1986: Ord. 22 § 5(C), 1977)

2.16.450 Promotions--Attendance at written examination.

On the written examination date, each examinee shall present himself promptly at the hour and place specified. In the event that illness or other contingency renders it impossible for any examinee to take the written examination at the designated time and place, he shall be given a written examination under such rules and conditions as the examining board deems necessary to safeguard the fairness and impartiality of the examination. (Ord. 22 § 5(D), 1977)

2.16.460 Promotions--Rules for examination.

A. The examining board shall correct and score the examination papers, and shall assign promotion points to each examination paper in the following manner.

B. The examination paper with the highest score shall be awarded one hundred points and all other papers shall be assigned a lesser number of points in proportion to their score.

C. Points for written examination shall not be linked with the names of examinees until all other examinations and tests are completed.

D. Only examinees scoring sixty percent or better of the highest score on the written examination will be eligible for the oral examination. (Ord. 02-14 § 1, 2002: Ord. 22 § 5(E), 1977)

2.16.470 Promotions--Correction and scoring of examination.

The examining board shall correct and score the examination papers, and shall assign promotion points to each examination paper in the following manner. Points for written examinations shall not be linked with the names of applicants until all other examinations and tests are completed. The examination paper with the highest score shall be awarded one hundred points and all other papers shall be assigned a lesser number of points in proportion to their score. (Ord. 22 § 5(F), 1977)

2.16.480 Promotions--Evaluation of examinees.

Within two weeks of any written examination to determine eligibility for promotion, or as promptly thereafter as possible, the director of fire services shall prepare an evaluation of each examinee. The director shall use available job efficiency evaluations prepared by the battalion chiefs to assist him/her in making a fair and impartial evaluation. The evaluations shall be based upon five factors. Each examinee shall receive no more than the designated number of points for any one factor, with a maximum possible score of one hundred points.



The five factors upon which the evaluation shall be based are defined as follows:

A. Attitude. As evidenced by attendance, cooperation, motivation, sincerity, unselfishness, enthusiasm, desire to assist other firefighters, attention to duty, willingness to assume responsibility, care of property; not more than fifteen points.

B. Decisiveness. As evidenced by ability to make decisions, ability to organize, ability to follow or give instructions, self-confidence, drive, determination, aggressiveness, moral courage; not more than thirty points.

C. Appearance and Bearing. As evidenced by physical ability, neatness in dress, physical bearing; not more than ten points.

D. Dependability. As evidenced by quality of work, initiative, promptness, consistency, judgment, reasoning and thinking, working without supervision, effectively acting in the absence of orders, pursuing course of action to successful conclusion, and loyalty; not more than thirty points.

E. Courtesy and Public Relations. As evidenced by the desire to assist the public, politeness, tact, poise, deportment, cooperation with other public departments and officials, ability to create good will in others toward the fire department; not more than fifteen points. (Ord. 02-14 § 2, 2002; Ord. 270 § 1 (part), 1986; Ord. 22 § 5(G), 1977)

#### 2.16.490 Promotions--Oral examination.

Except as provided in Section 2.16.470(D), an oral examination shall be given by the examining board to determine the fitness for promotion. The oral examinee with the highest score shall be awarded one hundred points and all other oral examinees shall be assigned a lesser number of points in proportion to their score. (Ord. 02-14 § 3, 2002; Ord. 270 § 1 (part), 1986; Ord. 22 § 5(H), 1977)

#### 2.16.500 Promotions--Use of personnel files for evaluation.

For the purpose of maintaining a record of personnel history, it shall be the duty of the personnel director to set up, keep and maintain a personnel file for each member of the paid fire department, in which shall be recorded commendations, charges, convictions, suspensions, and such other facts as are pertinent in evaluation. (Ord. 270 § 1 (part), 1986; Ord. 22 § 5(I), 1977)

#### 2.16.510 Promotions--Tabulation of promotion points.

The examining board shall tabulate the promotion points, based upon a maximum possible score of three hundred twenty points, upon which examinees shall be rated in the following manner for the position they seek:

A. Each member shall be given the number of promotion points which he received on the written examination; and, in addition thereto

B. Each member shall be given the number of promotion points which he received on the oral examination before the examining board; and, in addition thereto

C. Each member shall be given the number of promotion points which he received from the evaluation of examinees; and, in addition thereto

D. Each member shall be given one point for each year of service, but not to exceed twenty points for any one member.

E. All examinees will receive their grade and ranking in a sealed envelope from the office of the personnel director when the scoring and ranking are complete. (Ord. 02-14 § 4, 2002; Ord. 22 § 5(J), 1977)

#### 2.16.520 Promotions--Use of order of promotion list.

A. The names of members shall be placed on the order of promotion list in the order of the relative score for the position they seek, determined by the total number of promotion points.

B. Position to be Filled. Whenever a position is to be filled, the examining board shall certify to the chief executive the names of the three top examinees on the order of promotion list for the particular position to be filled. The remainder of the examinees will be placed on a roster, ranked by score, for a period of one year, unless such period is extended by action of the council of commissioners. In the event that one of the top three examinees for promotion has to be replaced for any reason, the next examinee, in order on the roster, will take the examinee's place in the top three.

C. Action by the Chief Executive and the Council of Commissioners. After receiving the three names, the chief executive must place one of such names before the council of commissioners for confirmation. The members of the council of commissioners shall be provided with the test scores of the top three names on the order of promotion list. (Ord. 02-14 § 5, 2002; Ord. 270 § 1 (part), 1986; Ord. 22 § 5(K), (L), (M), 1977)

#### 2.16.530 Suspensions and hearing before fire commission.

The chief executive may suspend the director of fire services, any paid assistant chief or any paid firefighter for neglect of duty or for violation of any of the rules and regulations of the fire department; the director of fire services may suspend any paid assistant chief or paid firefighter, and the paid assistant chief/administration may suspend any paid firefighter for a like cause in the manner provided by law, subject to appropriate proceedings before the fire commission. (Ord. 571 § 20, 1996; Ord. 551 § 11, 1996; Ord. 415 § 10, 1991; Ord. 22 § 9, 1977)

#### 2.16.540 Sick leave.

The director of fire services shall certify to the validity of all claimed absence because of illness by any member of the paid fire department. Absence from service because of illness shall not be chargeable against annual vacation leave. (Ord. 571 § 21, 1996; Ord. 22 § 10, 1977)

#### 2.16.550 Reduction of force in reverse order of appointment.

Should the council at any time reduce the number of firefighters in the paid fire department, those most recently appointed shall be separated from active service with the fire department, and the clerk and recorder shall keep a list of such firefighters, and should the number of firefighters be again increased by the council, the men on said list shall be called into service, the longest service firefighters being first selected for service in the paid fire department. (Ord. 270 § 1 (part), 1986; Ord. 22 § 6, 1977)

#### 2.16.560 Exemption of members.

No member of the fire department shall be liable to military or jury duty, or to arrest on civil process, while actually on duty. (Ord. 22 § 7, 1977)

#### 2.16.570 Transfers.

The director of fire services shall have power and discretion to transfer any paid firefighter from one assignment to another by notifying the individual affected by any such change. (Ord. 571 § 22, 1996; Ord. 270 § 1 (part), 1986; Ord. 22 § 8, 1977)

#### 2.16.580 Members to be furnished with rules and regulations.

Every paid member of the Butte-Silver Bow fire department shall be furnished with a copy of the department rules and regulations prescribed by the director of fire services. (Ord. 571 § 23, 1996; Ord. 270 § 1 (part), 1986; Ord. 22 § 13, 1977)

#### 2.16.590 Rules and regulations governing volunteer department.

The rules and regulations that apply at the present time governing the volunteer departments and their chiefs and officers shall remain in force. (Ord. 22 § 19, 1977)

2.16.600 Badges.

Every paid and volunteer member of the fire department when on duty shall wear a suitable badge, or proper identification furnished by the Butte-Silver Bow fire department, and any member who shall lose or destroy the same shall be required to pay the cost of replacing it; and whenever a member shall leave the department he shall immediately deliver his badge and all property belonging to Butte-Silver Bow to the proper officer of said department. (Ord. 270 § 1 (part), 1986: Ord. 22 § 14, 1977)

2.16.610 Supervision of paid department.

The director of fire services or the assistant chief acting in place of the director of fire services, or any battalion chief acting in place of the director of fire services, has the entire command and control and direction of all members of the paid fire department. No member of the paid fire department shall, without permission of the director of fire services, or the assistant chief or battalion chief acting in place of the director of fire services, leave any fire or other hazardous incident before it is brought under control. (Ord. 571 § 24, 1996: Ord. 415 § 11, 1991: Ord. 270 § 1 (part), 1986: Ord. 22 § 11, 1977)

2.16.620 Members' duty to prevent handling of department equipment.

It shall be the duty of paid and volunteer members of the Butte-Silver Bow fire department to prevent all persons not belonging to the department from handling any apparatus or equipment belonging to the department without permission. (Ord. 270 § 1 (part), 1986: Ord. 22 § 12, 1977)

2.16.630 Availability for performance of emergency duties.

All personnel of the Butte-Silver Bow department shall make themselves available to fight fires or perform other emergency duties whenever the situation warrants such duties should be performed. (Ord. 55 § 25, 1978)

2.16.640 False alarms.

No person shall purposely or knowingly give or cause to be given any false alarm of fire, by means of emergency response systems connected with the fire department or otherwise. Any person violating any of the provisions of this section shall, upon conviction, be deemed guilty of a misdemeanor and jurisdiction for such violation shall be in the city court of Butte-Silver Bow. (Ord. 415 § 12, 1991: Ord. 44 § 22, 1978)

2.16.650 Police powers of fire department.

The director of fire services, or the assistant chief or the battalion chief in command, shall have the power during a fire to arrest any person hindering or resisting a firefighter or refusing to obey such officer while acting in the discharge of official duty and such officer shall be severally vested with the usual powers and authority of law enforcement officers to command all persons to assist in making necessary arrests. (Ord. 571 § 25, 1996: Ord. 415 § 13, 1991: Ord. 270 § 1 (part), 1986: Ord. 22 § 15, 1977)

2.16.660 Obedience to fire officers during fires required.

Every person present at a fire shall be subject and obedient to the orders of the director of fire services or the assistant chiefs or the battalion chiefs of the fire department in command, in extinguishing the fire and the removal and protection of property. Any person refusing to obey such orders shall, upon

conviction, be deemed guilty of a misdemeanor and jurisdiction for such violation shall be in the city court of Butte-Silver Bow. (Ord. 571 § 26, 1996: Ord. 415 § 14, 1991: Ord. 270 § 1 (part), 1986: Ord. 22 § 16, 1977)

2.16.670 Emergency measures during fires.

During the process of a fire, the director of fire services or the assistant chief in command, shall have the power to order the removal or destruction of any building or structure to prevent the further spread of fire. (Ord. 571 § 27, 1996: Ord. 415 § 15, 1991: Ord. 270 § 1 (part), 1986: Ord. 22 § 17, 1977)

2.16.680 Right-of-entry for inspections.

All fire inspections shall be made under the supervision and control of the assistant chief/fire prevention and shall be conducted in accordance with the provisions of the current edition of the Uniform Fire Code as adopted by Chapter 15.10 of this code. (Ord. 415 § 16, 1991: Ord. 270 § 1 (part), 1986: Ord. 22 § 18, 1977)

2.16.690 Limitation on liability of persons.

No person, corporation, partnership or association which is authorized by the Butte-Silver Bow fire department to receive any report of fire or which agrees to receive and transmit such report to such fire department shall be liable in any civil action for damage to property or persons, including death, caused by delay in reporting or failure to report such fire, unless such delay or failure is the result of the gross negligence of such person, corporation, partnership, or association. (Ord. 270 § 1 (part), 1986: Ord. 22 § 19, 1977)

2.16.700 Entire devotion of time.

It is declared that it is in the interest of the public health, safety, welfare and morals of the fire protection services district that the members of the paid fire department be solely engaged in and devote their exclusive time and service to such department. All active members of the paid fire department shall from and after the effective date of the ordinance codified in this chapter devote their exclusive time and service to such department. It shall be unlawful for any active member of the paid fire department to be otherwise employed or engaged for profit in a regular and usual course of employment, occupation or livelihood. (Ord. 270 § 1 (part), 1986: Ord. 22 § 20, 1977)

2.16.710 Dispatch procedures for areas outside fire protection services district.

In those areas of Butte-Silver Bow outside of the Butte-Silver Bow fire protection services district (which is described in Section 2.16.020) which are accessible to urban fire equipment and urban fire crews shall be dispatched as follows:

- A. The closest volunteer fire department will be dispatched by the communication center to the fire or other dangerous situation.
- B. The ranking volunteer officer of that volunteer fire department will be in charge of the fire or other dangerous situation.
- C. Upon request of the officer in charge, the next closest fire department will be dispatched to assist.
- D. Upon request of the officer in charge, additional volunteer and paid pumpers will be dispatched. (Ord. 571 § 28, 1996; Ord. 551 § 12, 1996; Ord. 21 § 1, 1977)

2.16.720 Alarm communications center--Dispatch of units--Telephone number.

There shall be one alarm communications center at which all calls by telephone, radio or fire alarm system are received, and all department units,

both paid and volunteer, will be dispatched in the most efficient manner possible. The fire department telephone number will be the same for both paid and volunteer districts. (Ord. 15 § 2, 1977)

2.16.730 Communication between paid and volunteer departments.

Units of both the paid and volunteer fire departments will use the same radio frequency and will communicate while proceeding to the fire or other emergency situation in order to make the movement of equipment and personnel safe and orderly. (Ord. 15 § 3, 1977)

2.16.740 Volunteer departments to respond to calls only within individual fire protection services district.

Each volunteer fire department will answer calls only within the boundaries of its individual fire protection services district until requested by the dispatcher at the communication center to respond to another district. (Ord. 15 § 4, 1977)

2.16.750 Alarm defined.

An "alarm" is a call or request to the fire department for assistance in suppressing a fire or other dangerous situation. (Ord. 15 § 5, 1977)

2.16.760 First and second alarm fires--Officer in charge.

When a first or second alarm fire or other dangerous situation is found to exist, the person in charge shall be the ranking officer of that individual fire protection services district present at the scene. (Ord. 15 § 6, 1977)

2.16.770 First and second alarm fires--Response procedures within fire protection services district.

The fire response procedures for volunteer fire protection services districts within the Butte-Silver Bow fire protection services district for first and second alarm fires shall be as follows:

A. First Alarm. On the first alarm, one volunteer pumper from that individual district and one pumper from the paid department will respond to the fire or other dangerous situation.

B. Second Alarm. On the second alarm, the officer in charge (OIC) will determine what equipment is needed and will direct the communications center to request such additional equipment as the OIC deems necessary. (Ord. 314 § 1, 1987: Ord. 15 § 7, 1977)

2.16.780 First and second alarm fires--Response procedure within former corporate limits of Butte.

The fire response procedure for the area within the former corporate limits of the former city of Butte for first and second alarm fires shall be as follows:

A. First Alarm. Two paid pumpers will answer all fire or dangerous situation calls.

B. Second Alarm. The officer in charge (OIC) will call out an appropriate number of paid firefighters, along with one paid pumper. One volunteer pumper will be dispatched and one volunteer pumper will be placed on standby for quick response. (Ord. 314 § 2, 1987: Ord. 15 § 8, 1977)

2.16.790 Third alarm fires--Officer in command--Response procedure.

A. Third Alarm. The chief of the district, or the chief's designee, shall be the officer in charge (OIC) of all third alarm fires, and shall assume command upon arrival at the scene of the fire or other dangerous situation.

B. The OIC, as the OIC deems necessary, will call out available firefighters, both paid and volunteer, to respond to third alarm fires or other

dangerous situations. Volunteer departments not responding to the incident will be called and placed on standby for quick response to vacated districts. (Ord. 314 § 3, 1987; Ord. 15 § 9, 1977)

2.16.800 Medical emergencies--Response procedure.

Response to medical emergencies by the Butte-Silver Bow fire department will be limited to paid firefighters only, and volunteer departments will be dispatched by the OIC on an as-needed basis. (Ord. 374 § 1, 1990; Ord. 314 § 4, 1987)

2.16.810 Hazardous material incidents--Response procedure.

Initial response to hazardous material incidents by the Butte-Silver Bow fire department will be limited to paid firefighters only and the volunteer fire department from that individual district will immediately be placed on standby at its respective station. (Ord. 374 § 2, 1990)

## Chapter 2.20

### LAW ENFORCEMENT DEPARTMENT

#### Sections:

- 2.20.010 Purpose.
- 2.20.020 Scope.
- 2.20.030 Law enforcement department--Created.
- 2.20.040 Law enforcement department--Applicability of state law.
- 2.20.050 Jurisdiction.
- 2.20.060 MCA Sections 7-32-4114 to 7-32-4138 adopted--Definitions.
- 2.20.070 Sheriff--Powers--Supervision of law enforcement department.
- 2.20.080 Sheriff--Duties.
- 2.20.085 Fees of sheriff.
- 2.20.087 Inmate fees.
- 2.20.090 List of all active and eligible officers.
- 2.20.100 Utilization of retired officers.
- 2.20.110 Examination of applicants for position on law enforcement department.
- 2.20.120 Appointment to law enforcement department--Examinations--Exception for P.O.S.T. certified candidates.
- 2.20.130 Qualifications of law enforcement officers.
- 2.20.140 Probationary period and confirmation of appointment.
- 2.20.150 Temporary employment for person doing law enforcement work.
- 2.20.160 Procedure for reinstatement on law enforcement department.
- 2.20.170 Promotions of law enforcement officers.
- 2.20.180 Exemption of officers from military or jury duty.
- 2.20.190 Power, authority and duties of officers.
- 2.20.191 Badges.
- 2.20.192 Entire devotion of time.
- 2.20.200 Purpose.
- 2.20.210 Scope.
- 2.20.220 Definitions.
- 2.20.230 Sheriff--Chief officer.
- 2.20.240 Sheriff--Reports.
- 2.20.250 Undersheriff--Creation of office.
- 2.20.260 Undersheriff--Duties.
- 2.20.270 Undersheriff--Appointment.
- 2.20.280 Creation of divisions.

2.20.290 Captains--Creation of office.  
2.20.300 Captains--Duties.  
2.20.310 Captains--Appointment.  
2.20.320 Lieutenants--Creation of office.  
2.20.330 Lieutenants--Duties.  
2.20.340 Lieutenants--Appointment.  
2.20.350 Sergeants--Creation of office.  
2.20.360 Sergeants--Duties.  
2.20.370 Sergeants--Appointment.

2.20.010 Purpose.

The purpose of this chapter is to set forth the powers and duties of the sheriff and of the officers of the law enforcement department and to provide a structure for examination of applicants for appointment to the department and for promotion of officers within the department. (Ord. 345 § 1 (part), 1989)

2.20.020 Scope.

This chapter sets out the jurisdiction of the law enforcement department as established by state law and describes the authority, powers and duties of members of the law enforcement department, also as established by state law, and provides that all appointment and promotion of officers shall be done in accordance with the Montana Municipal Police Force Law. (Ord. 345 § 1 (part), 1989)

2.20.030 Law enforcement department--Created.

There is established and created within the government of the city and county of Butte-Silver Bow a department to be known as the law enforcement department. The Butte-Silver Bow law enforcement department shall be organized, managed and controlled under the provisions of Part 41 of Chapter 32 of the Montana Code Annotated (MCA) entitled "Municipal Police Force." (7-32-4101 MCA) (Ord. 345 § 1 (part), 1989)

2.20.040 Law enforcement department--Applicability of state law.

All appointments to the law enforcement department shall be made pursuant to the Municipal Police Force Law of Montana, Part 41 of Chapter 32 of Title 7, Montana Code Annotated (formerly Chapter 18, Title 11, Revised Codes of Montana, 1947, Metropolitan Police Law of the State of Montana), except: that the sheriff shall have the powers therein given to the mayor in a mayor-council form of municipal government, the council shall have the powers of the city council, and the clerk and recorder shall have the powers of the city clerk, and members of the department may be candidates for any elected office and may participate in political activities notwithstanding the provisions of the Municipal Police Force Law of the state. (Section 5.05(d) Butte-Silver Bow Charter) (Ord. 345 § 1 (part), 1989)

2.20.050 Jurisdiction.

The law enforcement department shall have such authority and perform such functions and duties as may be provided by this chapter and the laws of the state of Montana, the Butte-Silver Bow Charter and the ordinances of the city and county of Butte-Silver Bow. Such authority, duties and functions may be performed within the jurisdictional area of the city and county of Butte-Silver Bow and beyond the jurisdictional area of the city and county as provided by Montana law. (Ord. 345 § 1 (part), 1989)

2.20.060 MCA Sections 7-32-4114 to 7-32-4138 adopted--Definitions.

The provisions of Sections 7-32-4114 to 7-32-4138 Montana Code Annotated are to be adopted verbatim provided the following definitions apply:

A. "Butte-Silver Bow" means the local government of the city and county of Butte-Silver Bow, state of Montana, and includes all of its offices, agencies, boards, bureaus and commissions and further includes all that area within the boundaries of the city and county of Butte-Silver Bow, Montana.

B. "Chief executive" means the chief executive of the city and county of Butte-Silver Bow, Montana.

C. "Chief of police" means the sheriff of the city and county of Butte-Silver Bow, Montana.

D. "City" means the local government of the city and county of Butte-Silver Bow, Montana.

E. "City council" means the council of commissioners of the city and county of Butte-Silver Bow, Montana.

F. "City and county" means the local government of the city and county of Butte-Silver Bow, Montana, and includes all its offices, agencies, boards, bureaus and commissions and further includes all that area within the boundaries of the city and county of Butte-Silver Bow, Montana.

G. "City treasurer" means the treasurer of the city and county of Butte-Silver Bow, Montana.

H. "Council" means the council of commissioners, the governing body of the city and county of Butte-Silver Bow, Montana and includes all of its individual members.

I. "County attorney" means the county attorney of the city and county of Butte-Silver Bow, Montana and includes all of his assistants and deputies.

J. "Fire department" means the fire department of the city and county of Butte-Silver Bow and includes all of its members and officers, whether paid or volunteer firefighters.

K. "Government" means the local government of the city and county of Butte-Silver Bow.

L. "Law enforcement commission" means the law enforcement commission of the city and county of Butte-Silver Bow, Montana and includes all its individual members.

M. "Law enforcement department" means the law enforcement department of the city and county of Butte-Silver Bow, Montana, which is organized under the provisions of Part 41 of Chapter 32 of Title 7 of the Montana Code Annotated and Section 5.05 of the Charter of the local government of the city and county of Butte-Silver Bow, Montana.

N. "Law enforcement force" means the law enforcement officers of the city and county of Butte-Silver Bow.

O. "Law enforcement officers" means the law enforcement officers of the city and county of Butte-Silver Bow.

P. "Municipality" means the local government of the city and county of Butte-Silver Bow, state of Montana, and includes all its offices, agencies, boards, bureaus and commissions and further includes all that area within the boundaries of the city and county of Butte-Silver Bow, Montana except that area within the territorial limits of the town of Walkerville, Montana.

Q. "Police" means the law enforcement officers of the city and county of Butte-Silver Bow, Montana.

R. "Police department" means the law enforcement department of the city and county of Butte-Silver Bow, Montana.

S. "Police force" means the law enforcement force of the city and county of Butte-Silver Bow, Montana.

T. "Policemen" means the law enforcement officers of the city and county of Butte-Silver Bow.

U. "Sheriff" means the sheriff of the city and county of Butte-Silver Bow, head of the law enforcement department of the city and county of Butte-Silver Bow, Montana.



V. "Undersheriff" means the appointed undersheriff of the law enforcement department of the city and county of Butte-Silver Bow, Montana. (Ord. 345 § 1 (part), 1989)

2.20.070 Sheriff--Powers--Supervision of law enforcement department.

The sheriff shall supervise the performance of the members and officers of the law enforcement department and shall devote his whole time to the affairs of the law enforcement department. He shall appoint all members and officers of the department and he shall have the power to suspend or remove any member or officer of the department, subject to the provisions of the laws of the state of Montana, the Butte-Silver Bow Charter and other Butte-Silver Bow ordinances. (Section 5.05(d)(1), Butte-Silver Bow Charter) (Ord. 345 § 1 (part), 1989)

2.20.080 Sheriff--Duties.

It is the duty of the sheriff to:

- A. Preserve the peace and order within the city and county of Butte-Silver Bow;
- B. Enforce all state laws and laws of the city and county of Butte-Silver Bow;
- C. Arrest and take before the nearest magistrate for examination all persons who attempt to commit or have committed a public offense;
- D. Prevent and suppress all affrays, breaches of the peace, riots and insurrections which come to his knowledge;
- E. Assist the animal warden within the city and county with reference to the protection of dumb animals;
- F. Attend all courts of the state of Montana and the city and county of Butte-Silver Bow, at their respective terms or sessions held within the city and county and obey their lawful orders and directions;
- G. Command the aid of as many inhabitants of the city and county as are necessary in the execution of the sheriff's duties;
- H. Take charge of and keep the detention center and the inmates therein, unless the detention center is operated by a private party under an agreement entered into under Section 7-32-2201, MCA, or by a detention center administrator or by another local government;
- I. Serve all process or notices in the manner prescribed by law;
- J. Adopt such rules and regulations not in conflict with the laws of the state of Montana and the city and county of Butte-Silver Bow as he may deem necessary and advisable for the regulation of the law enforcement department, subject to the approval of the council, and he shall furnish to each officer a printed copy of such rules and regulations;
- K. Protect the rights of persons and property;
- L. Take notice of all nuisances, impediments, obstructions and defects in the streets, avenues,

alleys and public places within the city and county of Butte-Silver Bow, and to remove the same or cause immediate notice thereof to be given to the proper official whose duty it may be to take action in relation thereto;

M. Perform such other duties as are required by law. (Section 7-32-4.105 MCA and Section 7-32-2121 MCA) (Ord. 00-8 § 1, 2000; Ord. 345 § 1 (part), 1989)

2.20.085 Fees of sheriff.

Pursuant to Section 7-32-2141, MCA, the sheriff shall receive the following fees for the following services:

A. For the service of summons and complaint on each defendant, forty dollars, with twenty dollars deposited by the treasurer in the general fund and fifteen dollars deposited in the law enforcement patrol vehicle replacement fund and five dollars in the law enforcement equipment fund.

B. For making a return of a summons for a person not found in the county, in addition to actual mileage traveled, twelve dollars with two dollars deposited by the treasurer in the general fund and eight dollars deposited in the law enforcement patrol vehicle replacement fund and two dollars deposited in the law enforcement equipment fund.

C. For levying and serving each writ of attachment of execution on real or personal property, forty dollars, with twenty dollars deposited by the treasurer in the general fund and fifteen dollars deposited in the law enforcement patrol vehicle replacement fund and five dollars in the law enforcement equipment fund.

D. For service of attachment on the body or order of arrest on each defendant, forty dollars, with twenty dollars deposited by the treasurer in the general fund and fifteen dollars deposited in the law enforcement patrol vehicle replacement fund and five dollars deposited in the law enforcement equipment fund.

E. For the service of affidavit, order, and undertaking in claim and delivery, forty dollars, with twenty dollars deposited by the treasurer in the general fund and fifteen dollars deposited in the law enforcement patrol vehicle replacement fund and five dollars deposited in the law enforcement equipment fund.

F. For serving a subpoena, forty dollars for each witness summoned, with twenty dollars deposited by the treasurer in the general fund and fifteen dollars deposited in the law enforcement patrol vehicle replacement fund and five dollars deposited in the law enforcement equipment fund.

G. For serving a writ of possession or restitution, forty dollars, with twenty dollars deposited by the treasurer in the general fund and fifteen dollars deposited in the law enforcement patrol vehicle replacement fund and five dollars deposited in the law enforcement equipment fund.

H. For trial of the right of property or damages, including all services except mileage, forty dollars, with twenty dollars deposited by the treasurer in the general fund and fifteen dollars deposited in the law enforcement patrol vehicle replacement fund and five dollars deposited in the law enforcement equipment fund.

I. For taking bond or undertaking in any case authorized by law, one hundred dollars, with eighty dollars deposited by the treasurer in the general fund and twenty dollars deposited in the law enforcement patrol vehicle replacement fund.

J. For serving every notice, rule, or order, forty dollars, with twenty dollars, deposited by the treasurer in the general fund and fifteen dollars deposited in the law enforcement patrol vehicle replacement fund and five dollars deposited in the law enforcement equipment fund.

K. For a copy of any writ, process, or other paper when demanded or required by law, forty dollars, with twenty dollars deposited by the treasurer in the general fund and fifteen dollars deposited in the law enforcement patrol vehicle replacement fund and five dollars deposited in the law enforcement equipment fund.

L. For posting notices and advertising any property for sale on execution or under any judgment or order of sale, exclusive of cost of publication, forty dollars, with twenty dollars deposited by the treasurer in the general fund and fifteen dollars deposited in the law enforcement patrol vehicle replacement fund and five dollars deposited in the law enforcement equipment fund.

M. For holding any sheriff's sale for personal or real property on execution or under any judgment or other of sale, forty dollars, with twenty dollars deposited by the treasurer in the general fund and twenty dollars deposited in the law enforcement patrol vehicle replacement fund.

N. For rescheduling after postponement of sheriff's sale, forty dollars, with twenty dollars deposited by the treasurer in the general fund and fifteen dollars deposited in the law enforcement patrol vehicle replacement fund and five dollars deposited in the law enforcement equipment fund.

O. The charge for copies of police reports being provided to insurance companies and other entities, twelve dollars, with two dollars deposited by the treasurer in the general fund and eight dollars deposited in the law enforcement patrol vehicle replacement fund and two dollars deposited in the law enforcement equipment fund.

P. The charge for vehicle inspections, twenty dollars, to be deposited in the law enforcement equipment fund.

Q. For being booked after arrest, each person booked at the Law Enforcement Department or the Detention Center pay a fee of twenty dollars to the Butte-Silver Bow Law Enforcement Department. The fee is payable immediately from any money then possessed by the person being booked, or any money deposited with the Law Enforcement Department or Detention Center administration on the person's behalf. For booking fees collected, they shall be divided with fifty percent deposited by the Treasurer in the Vehicle Replacement Fund and fifty percent being deposited in the General Fund.

R. The fee for having a catered special event for beer and wine licenses is thirty-five dollars per each day to be deposited by the Treasurer in the Law Enforcement Patrol Vehicle Replacement Fund.

S. The charge for processing applications for special permits to sell beer/table wine shall be twenty dollars per each day of each event to be deposited by the Treasurer in the Law Enforcement Patrol Vehicle Replacement Fund.

T. The charge for fingerprints twenty dollars, to be deposited in the Law Enforcement Patrol Vehicle Replacement Fund.

U. The charge for DNA Buccal Swab Collection shall be twenty dollars, deposited by the Treasurer in the Law Enforcement Equipment Fund.

V. The late charge penalty for each attempt to collect for beer license, beer and wine license and liquor license by the Special Deputy is twenty dollars, to be deposited by the Treasurer in the Law Enforcement Equipment Fund. (Ord. 02-20 § 1, 2003; Ord. 02-5 § 1, 2002; Ord. 02-2 § 1, 2002; Ord. 01-17 § 1, 2002; Ord. 01-15 § 1, 2001; Ord. 01-13 § 1, 2001; Ord. 01-6 § 1, 2001; Ord. 98-5 § 1, 1998)

#### 2.20.087 Inmate fees.

A. Charges for Damage to City-County Property by Inmates.

1. Inmates incarcerated at the Butte-Silver Bow detention center ("detention center") are liable to the city and county of Butte-Silver Bow, Montana ("city-county") for damage to certain items issued to inmates for personal use as follows:

- a. Jumpsuits \$14.50;
- b. Shoes \$1.90;
- c. Towels \$2.00;
- d. Washcloth \$.50;
- e. Mattress cover \$5.25;
- f. Mattress \$37.00;
- g. Blanket \$12.50; and
- h. Inmate handbook \$1.50.

2. Costs of inmate incarceration will be sought against inmates who are able to pay and these funds may be deducted from the inmate's detention center

commissary (commissary) account, or appropriate legal action may be initiated to recover costs of damaged items and incarceration.

3. Inmates are liable for all damage which they cause to city-county property at the detention center. If city-county property is damaged or destroyed, the inmate will be charged the actual amount for expenses incurred to repair or replace the damaged property. These funds may be deducted from the inmate's commissary account. If there are insufficient funds in the inmate's commissary account to pay for the damages, the inmate will be given a bill for the balance of his/her charges on their release. If the inmate is unable to pay from his/her personal funds on account, collection of their balance due for damage or incarceration will be sought through appropriate legal action.

B. Reimbursement for Cost of Confinement. Pursuant to Section 46-18-201(4)(d), MCA, reimbursement of costs for confinement will be sought from all city-county detention center inmates determined to be able to pay, as set out in subsection T of this section.

C. Cost Recovery for Goods and Services.

1. Any person placed into the care and custody of the detention center by an authority with recognized legal authority to detain the person shall be financially responsible for hygienic and grooming goods and services provided to them during their period of incarceration, provided, that prisoners without funds shall have access to such minimum items as toothpaste, toothbrush, comb, shampoo, and soap, without cost.

2. The sheriff is authorized to recoup from inmate funds, to the fullest extent authorized by law, all costs of housing, goods and services provided to any person placed into the care and custody of the detention center.

3. The city-county or any healthcare provider may obtain reimbursement from any inmate for the cost of health care services, including reimbursement from any insurance program or from other medical benefit programs available to the inmate. Nothing in this section precludes civil or criminal remedies to recover the costs of medical care provided inmates or paid for on behalf of inmates by the detention center.

4. Under no circumstances shall necessary medical services be denied or delayed because of disputes over the cost of medical care or a determination of financial responsibility for payment of the costs for medical care provided to inmates.

5. Nothing in this section shall limit the right of any party, including a unit of government, to recover costs of care provided to an inmate. Any expense reimbursement shall be deposited into the account that bore the expense.

D. Office Calls/Medical Treatment.

1. A fee of ten dollars will be charged an inmate for each office call for treatment by a healthcare professional and a fee of ten dollars will also be charged an inmate for treatment at the detention center by an outside healthcare professional. Inmates will be informed of this fee at the time of booking and signs will be posted in the living areas in the detention center and the inmate will be informed of this fee before the office visit begins. In those cases where a medical condition requires follow-up daily maintenance, a fee will not assessed after the initial office visit and the treatment is established. In addition, there will be no fee charged for internal referrals to other healthcare professionals. However, if an inmate demands a second examination by another healthcare professional, another office call will be charged.

2. Total payments by the city-county to healthcare providers for medical care rendered to inmates shall not exceed the amount that would be paid for similar services provided under Medicaid reimbursement. Any additional costs shall be the financial responsibility of the inmate.

E. Prescription Fees. Any time a prescription is ordered or refilled for an inmate, a ten dollar fee will be charged. Any inmate requesting, and

receiving medication from an outside doctor will be responsible for the full costs of the medications. A ten dollar fee will be assessed for processing, storing and distributing the medication.

F. Lab Tests. A ten dollar fee will be assessed for each lab test ordered for an inmate by any healthcare professional. Exclusions to this fee are court ordered DNA and HIV blood draws.

G. X-Rays. A ten dollar fee will be assessed for each x-ray ordered for an inmate by any healthcare professional.

H. Requests for Medical Attention-Advice. Inmates will be assessed a fee for submitting a medical request form requesting medical advice for minor health issues during sick call.

I. Refusal of Medical Care. Any inmate can refuse medical care upon being informed of the costs involved with the services. A medical refusal form will be filled out by the healthcare provider and signed by the inmate. If the inmate refuses to sign the refusal form, the refusal shall be witnessed in writing by two staff members and documented in the inmate's medical records. Prisoners who refuse medical treatment may necessitate approved exceptions by the detention center administrative staff or by an appropriate medical professional.

J. Emergency Care. In the case of injury requiring emergency care at a hospital, the inmate will be transported by ambulance in accordance with established policy. However, inmates who have medical insurance may be responsible for their medical expenses.

K. Emergency Care--First Aid. In the case of injury requiring first aid, the detention center staff will provide basic first aid to the inmate and no fee will be charged. Additional, or requested care will be assessed a ten dollar fee as set out in subsection D of this section. Refusal of additional care will be documented as outlined in subsection I of this section. Prisoners who refuse emergency care/first aid treatment may necessitate approved exceptions by detention center administrative staff or by an appropriate medical professional.

L. Pre-Existing Medical Conditions. Any pre-existing medical condition which requires treatment shall be the full responsibility of the inmate. No portion of the medical expense shall be paid by the detention center for pre-existing medical conditions, including dental. Dental expenses will be covered by the detention center only when the inmate has incurred injuries while in the custody of the detention center or a determination is made by a medical professional that condition was not pre-existing.

M. Indigent Inmate Medical Care. Inmates who do not have the ability or resources to pay costs associated with medical care will receive the same care as those who can pay. A debit will be assessed to the indigent inmate's commissary account, with the intention that as funds become available, part of the money the inmate receives will be applied to the debt. The percentage has been established at fifty percent of the funds available, per deposit received, until the entire debt is satisfied. The debt will be carried after the inmate is released. If the inmate returns to the detention center with funds, fifty percent of these funds will be applied to the debt and the outstanding bill may be turned over to a collection or pursued through appropriate legal process.

N. Miscellaneous.

1. Acetaminophen, ibuprofen, aspirin, antacid and band-aids will be available for purchase by inmates from the commissary.

2. Inmates who fail to purchase necessary health items (e.g. foot powder) through the commissary may request these items during sick call and receive the needed items. However, a ten dollar processing and administration fee will be charged.

3. Dental floss may be purchased through the commissary.

4. Inmates held under federal or state inmate housing contracts will not be charged for medical services.

O. Inmate Intake. As part of the screening process upon booking or preparation of an inmate into the detention center, general information concerning the inmate's ability to pay for medical care shall be identified, including insurance or other medical benefits or resources to which an inmate is entitled. In addition, any pre-existing conditions or prescription treatment shall be recorded.

P. Obtaining Medical Reimbursement.

1. Detention center booking staff will have each inmate sign a written notice and authorization form for medical services at the time of booking. In addition, the inmate will sign a medical service invoice form when service is provided.

2. Each medical care provider is responsible for submitting bills for detention center inmate healthcare to Medicaid (or another insurer) immediately after the healthcare service is provided to the inmate. The medical provider shall submit billing under the name and personal address of the inmate. Only after all insurers (including Medicaid) have been billed, will the city-county be billed for such service.

Q. Outstanding Medical Balances and Services. Reimbursement for outstanding medical balances and services owed upon release may be pursued through internal city-county legal process action or outside collection services.

R. Self-Inflicted Injuries. The city-county is not responsible for any medical costs associated with self-inflicted injuries or injuries incurred while participating in a violent exchange with another party while incarcerated. An inmate is responsible for all medical costs incurred for any and all medical treatment received due to self-infliction or participating in a violent exchange with another party while incarcerated.

S. Pre-Existing Conditions. The city-county is not responsible for any medical costs associated with a pre-existing condition. All medical costs for pre-existing conditions will be the responsibility of the inmate.

T. Food and Housing Fees. A twenty dollar per diem daily charge for food and housing will be charged to each inmate for each calendar date of incarceration, except as provided in subsection (N)(4) of this section. Each inmate will be given a bill for the balance of his/her per diem charge upon their release from the detention center. If the inmate has insufficient funds in his/her commissary account to pay these charges, a negative balance will be established on this account and the outstanding bill may be turned over to a collection agency or pursued through the city-county legal process. (Ord. 02-22 § 1, 2002)

2.20.090 List of all active and eligible officers.

A. The council shall have absolute and exclusive power to determine and limit the number of law enforcement officers to comprise the law enforcement force and to divide the membership into two lists, one an active list to be actually employed and receive pay while so employed, and one an eligible list, not to receive pay unless actually employed as an officer. The council shall also have the power to reduce the number of the law enforcement force at any time.

B. Such officers on the active list who are temporarily relieved from duty shall become members of the eligible list without pay and shall be entitled first to reinstatement on the active list, in case of vacancy, according to their seniority in the service. All others on the eligible list shall be entitled to fill a vacancy in the order of their appointment.

C. In no event shall any officer be placed on the eligible list, except in case of temporary reduction of the law enforcement force, when the number

already on the eligible list shall equal in number twenty percent of the active list. (Section 7-32-4106 MCA) (Ord. 345 § 1 (part), 1989)

2.20.100 Utilization of retired officers.

Officers on the retired list of the law enforcement department shall retire from the active list of officers of the law enforcement department but shall be subject to call for law enforcement service or active duty whenever an emergency shall require or the active list be temporarily insufficient for proper policing of the city and county, all under the rules as the law enforcement commission or the council shall prescribe. (Section 7-32-4107 MCA) (Ord. 345 § 1 (part), 1989)

2.20.110 Examination of applicants for position on law enforcement department.

A. All records and files of applicants for position on the law enforcement department shall be kept and maintained by the law enforcement commission. All files and records of the law enforcement commission, except those of a confidential nature, shall be public or as otherwise provided by law.

B. Applicants for employment as officers must submit written application in accordance with forms provided by the law enforcement commission.

C. Before certification by the law enforcement commission, all applications must have the following copies attached:

1. Birth certificate;
2. High school diploma or an acceptable certificate of equivalency;
3. Military discharge record if applicant has served in any of the armed forces;

4. Copy of fingerprint record obtained by the law enforcement identification bureau;

5. Background check conducted by the law enforcement commission.

D. Applicants must present themselves at a time and place for such written examinations as may be prepared and given after receiving proper written notification of such examination. All written examinations shall be in a format approved by the state of Montana P.O.S.T. testing.

E. Applicants who have successfully passed such written examination to the satisfaction of the law enforcement commission must present themselves at a time and place for such oral examination as may be drawn and given by the law enforcement commission after receiving proper written notification of such examination. (Section 7-32-4111 MCA)

F. Physical Examination and Physical Qualifications. Persons eligible for appointment to the active list shall have passed a physical examination by a practicing physician. The physician shall make a written report of his findings. The report shall disclose the applicant's ability to perform the physical work usually required of a law enforcement officer in the performance of his duty and in addition thereto shall point out any variances or disabilities. The physician in making such examination and report shall detail the result of testing eyesight in the following particulars:

1. Indicating the sharpness of vision (visual acuity) and ability to recognize color;

2. Eyesight must be correctable to 20/20 with glasses and with corrected vision to be able to drive, read vehicle license plates, recognize suspects and fire firearms at distant or close targets;

3. In addition to the test for sharpness of eyesight and color blindness, the examining physician shall examine the eyes to make sure they are free from disease or possible condition that might lead to the rapid deterioration of the eyesight;

4. Applicants who are red-green colorblind shall be rejected.

The physician shall state if the candidate has any other defects which would seriously impair his efficiency on the job.

G. Psychological Evaluation. Psychological evaluation is required before appointment to the eligible list. The candidate will be required to undergo psychological testing or psychiatric examination as may be required by the law enforcement commission to determine his emotional fitness for law enforcement work. The candidate should be found emotionally mature and of stable disposition. (Ord. 02-17 § 1, 2002; Ord. 01-04 § 1, 2001; Ord. 345 § 1 (part), 1989)

2.20.120 Appointment to law enforcement department--Examinations--Exception for P.O.S.T. certified candidates.

A. Terms. All appointments to the law enforcement department will be made by the sheriff and confirmed by the council, but no such appointment may be made until an application for such position on the law enforcement department has been filed with the sheriff and by him referred to the law enforcement commission, and such applicant has successfully passed the examination required to be held by the law enforcement commission, and a certificate from the law enforcement commission that the applicant has qualified for such appointment has been filed with the sheriff. Provided however that applicants who are currently P.O.S.T. (Police Officers Standards and Training) certified in the state of Montana, and who are currently employed as a law enforcement officer within the state of Montana, will not be required to submit to the written examination of the law enforcement commission. Such applicants may be considered for appointment by the sheriff upon issuance of a certificate from the law enforcement commission that the applicant has qualified for such appointment based upon the results of an oral interview with the law enforcement commission.

B. Before appointment of an applicant, he shall attend a meeting of the council or the committee of the whole for an interview.

C. If at any time after appointment or confirmation there are reasonable grounds to believe that the applicant made representations in his written application which were wilfully false, and if such representations were such as were material to his employment, charges will be filed before the law enforcement commission for removal of such member from the law enforcement department. If such representation is of such a nature as would not have been material to employment, charges may be filed before the law enforcement commission for appropriate disciplinary action. (Section 7-32-4108 MCA) (5.05(d), Butte-Silver Bow Charter) (Ord. 02-9 § 1, 2002; Ord. 345 § 1 (part), 1989)

2.20.130 Qualifications of law enforcement officers.

Applicants for employment as officers of the law enforcement department must meet the following requirements:

A. An applicant must be a high school graduate or possess an acceptable equivalency diploma;

B. An applicant shall not be less than eighteen years of age and must be able to pass successfully the medical examination and a physical fitness test;

C. An applicant must be a citizen of the United States, and meet the minimum qualifying standards for employment promulgated by the Montana Board of Crime Control;

D. If the applicant has served in any of the armed forces, he must have received an honorable discharge;

E. An applicant must have successfully passed all of the required examinations;



F. An applicant must not have been convicted of a felony, or other crime involving moral turpitude. (Section 7-32-4112 MCA) (Ord. 515 § 1, 1995; Ord. 345 § 1 (part), 1989)

2.20.140 Probationary period and confirmation of appointment.

A. Every applicant who has passed the examination and received the certificate referred to in Section 2.20.090 must first serve for a probationary term of not more than one year. At any time before

the end of such probationary term, the sheriff may revoke such appointment.

B. After the end of such probationary period and within thirty days thereafter, the appointment of such applicant must be submitted to the council, and if such appointment is confirmed by the council such applicant becomes a member of the law enforcement department and shall hold such position during good behavior unless suspended or discharged as provided by the Montana Municipal Police Force Law and this chapter. (Section 7-42-4113 MCA) (Section 5.05(d), Butte-Silver Bow Charter) (Ord. 345 § 1 (part), 1989)

2.20.150 Temporary employment for person doing law enforcement work.

The chief executive shall have the power and authority to appoint not to exceed two persons for special duty, to serve for a period not to exceed thirty days, when in his judgment the public welfare demands it. Said appointments shall not be made from the members of the law enforcement department, and said appointees shall be under the supervision of the sheriff and shall be allowed any additional expense necessarily incurred in the performance of such special duty. (Section 7-32-4109 MCA) (Ord. 345 § 1 (part), 1989)

2.20.160 Procedure for reinstatement on law enforcement department.

A. An applicant for a position on the law enforcement department who has already served twenty years or more in the aggregate on the law enforcement department may make application to the law enforcement commission for reinstatement within one year from the date on which his name was removed from the active list of law enforcement officers, and his application must be considered by the law enforcement commission within thirty days after receipt of the application.

B. The law enforcement commission shall not require the applicant to have a physical examination or other examination required of applicants for a position on the law enforcement department; and in the event that the law enforcement commission recommends the reinstatement of the applicant as a member of the law enforcement department, the probationary term required of applicants for positions shall be dispensed with as to such applicant for reinstatement. It shall be the duty of the sheriff to submit to the council at its next regular meeting the recommendation of the law enforcement commission; and in the event that a majority of the council vote in favor of adopting the recommendation of the law enforcement commission, the applicant shall be immediately reinstated as a law enforcement officer for the city and county of Butte-Silver Bow. (Section 7-32-4110 MCA) (Section 5.05(d), Butte-Silver Bow Charter) (Ord. 345 § 1 (part), 1989)

2.20.170 Promotions of law enforcement officers.

All promotions within the law enforcement department shall be governed by the following rules:

A. An examining board is established consisting of the law enforcement commission. The examining board shall require written and oral examinations for the purpose of promotion. Such examinations shall relate to the duties and functions of the various ranks in the law enforcement department.

B. Eligibility for Promotion to Next Rank.

1. An officer must have completed the following number of years of service in the law enforcement department to be eligible for the following specified promotions in rank. Three years of service must be completed for promotion to sergeant. Five years of service must be completed for promotion to lieutenant. Only confirmed sergeants are eligible to apply for promotion to the rank of lieutenant. An applicant for the position of lieutenant must have completed at least eighteen months of satisfactory service at the rank of sergeant. Such service must be immediately prior to the official deadline for filing applications as set out in the examination announcement. All persons who qualify by reason of eligibility for the rank of sergeant or lieutenant shall be certified in writing to the examining board at the time and place of such examination. After receiving proper certification, those persons seeking promotion to the rank of sergeant or lieutenant must file with the examining board a written application to take such examination.

2. An officer must have completed eight years of service for promotion to the rank of captain. Promotion to the rank of captain shall be made by the sheriff with additional consultation when it is deemed necessary by the sheriff. Any officer under consideration for the position of captain must have completed at least eighteen continuous months of satisfactory service at the rank of either lieutenant or sergeant and shall be deemed by the sheriff to be a person qualified by training and experience to fill the position of captain. All promotions to the rank of captain shall be confirmed by the council of commissioners.

3. All officer promotions are subject to a twelve month probationary period prior to confirmation of that rank. The probationary period shall commence on the effective date of the officer's promotion.

C. All examinations shall relate to those matters which in the opinion of the examining board fairly test the relative capacity and fitness of the persons examined to perform the duties of the position to which they seek promotion.

D. Attendance at Written Examination. On the written examination date, each examinee shall present himself promptly at the hour and place specified. In the event that illness or other contingency renders it impossible for any examinee to take the written examination at the designated time and place, he shall be given a written examination under such rules and conditions as the examining board shall deem necessary to safeguard the fairness and impartiality of the examination.

E. Rules for examination are as follows:

1. The examining board shall make necessary explanations to the entire group of examinees and shall not make individual examinations to any examinee. The time allowed for written examinations shall begin after all announcements, explanations and instructions have been given, and no explanations or instructions shall be given thereafter.

2. The examining board shall distribute the examinations, each of which shall be identified only by a number, to each examinee and shall make a written record of the examination identification number for each examination, which written record shall not at any time be viewed by the examining board but shall be placed in a sealed envelope and shall not be opened until the examination papers have been graded and marked. No examinee shall place any mark upon his examination paper which will in any way identify the examinee.

F. Correction and Scoring of Examinations. The examining board shall correct and score the examination papers, and shall assign promotion points to each examination paper in the following manner. The examination paper with the highest score shall be awarded one hundred points and all other papers shall be assigned a lesser number of points in proportion to their score.

G. Evaluation of Examinees. Within two weeks of any written examination to determine eligibility for promotion, or as promptly thereafter as is

possible, the sheriff shall prepare an evaluation of each examinee. To assist him in making a fair and impartial evaluation, he shall use available job efficiency evaluations, done by the division heads. The evaluations shall be based upon five factors. Each member shall receive no more than the designated number of points for any one factor. The five factors upon which the evaluation shall be based are defined as follows:

1. Attitude. As evidenced by attendance, cooperation, motivation, sincerity, unselfishness, enthusiasm, desire to assist other officers, attention to duty, willingness to assume responsibility, care of property; not more than fifteen points;

2. Decisiveness. As evidenced by ability to make decisions, ability to organize, ability to follow or give instructions, self-confidence, drive, determination, aggressiveness, moral courage; not more than thirty points;

3. Appearance and Bearing. As evidenced by physical ability, neatness in dress, physical bearing; not more than ten points;

4. Dependability. As evidenced by quality of work, initiative, promptness, consistency, judgment, reasoning and thinking, work without supervision, act in the absence of orders, pursue course of action to successful conclusion, loyalty, ability to assert reasonable physical force in arrests without inflicting injury; not more than thirty points;

5. Courtesy and Public Relations. As evidenced by the desire to assist the public, politeness, tact, poise, deportment, cooperation with other public departments and officials, ability to create good will in others toward the law enforcement department and related law enforcement agencies; not more than fifteen points.

H. Oral Examination. An oral examination shall be given by the examining board to determine the fitness for promotion, and on the basis of such examination promotion points shall be assigned by the examining board not to exceed one hundred points.

I. Personnel History. The sheriff shall provide the personnel director with records of all commendations, reprimands, suspensions and such other facts as are pertinent in evaluating an officer or promotion.

The personnel director shall maintain a personnel file for each officer which shall contain commendations, reprimands, suspensions and such other facts as are pertinent in evaluating an officer.

J. Order of Promotion. The examining board shall tabulate the promotion points upon which officers of the law enforcement department shall be rated in the following manner for the position they seek:

1. Each officer shall be given the number of promotion points which he received on the written examination, and in addition thereto;

2. Each officer shall be given the number of promotion points which he received on the oral examination before the examination board, and in addition thereto;

3. Each officer shall be given the number of promotion points which he received from the evaluation of examinees, and in addition thereto;

4. Each officer shall receive one point for each year of service as an officer, not to exceed twenty points for any one member. Seniority promotion points for each year of service will begin to accrue from the date an officer is appointed to the law enforcement department as an officer.

K. Rules of Order of Promotion. The names of officers shall be placed on the order of promotion list in order of the relative score for the position they seek, determined by the total number of promotion points.

L. Position to be Filled. Whenever a position is to be filled, the examining board shall certify to the sheriff the names of the three top officers on the order of promotion list for the particular position to be filled.

M. Action by Sheriff and Council of Commissioners. After receiving the three names, the sheriff shall place one of such names before the council for

confirmation. Prior to the confirmation, the members of the council shall be provided with the test scores of the top three names on the order of promotion, which information shall be verified to the council by the personnel director at the time the three names are submitted for promotion. (Ord. 02-13 § 1, 2002; Ord. 585 § 1, 1997; Ord. 361 § 1, 1989; Ord. 345 § 1 (part), 1989)

2.20.180 Exemption of officers from military or jury duty.

No officer of the law enforcement department shall be liable to military or jury duty, or to arrest on civil process, while actually on duty. (Section 7-32-4115 MCA) (Ord. 345 § 1 (part), 1989)

2.20.190 Power, authority and duties of officers.

A. The officers of the law enforcement department, when on duty, shall devote their time and attention to the discharge of the duties of their stations according to the laws of the state and of the city and county of Butte-Silver Bow, and the rules and regulations of the law enforcement department, to preserve order, peace and quiet and to enforce the laws of the state and of the city and county of Butte-Silver Bow. They shall have power to arrest all persons within the city and county found in the act of violating any laws or aiding and abetting in any such violation, and shall arrest any persons found under circumstances which would warrant a reasonable man in the belief that such person had committed or is about to commit a crime.

B. The law enforcement officers of the law enforcement department shall have the power and authority to serve and execute warrants and other processes for the apprehension of persons charged with violating any of the laws of the state or of the city and county of Butte-Silver Bow and serve all process or notices in the manner prescribed by law.

C. It shall be the duty of the officers of the law enforcement department to aid the fire department by giving alarms in case of fire, and in clearing the streets or grounds in the immediate vicinity of the fire so that the members of the fire department shall not be hindered or restricted in the performance of their duty, and the law enforcement department officers shall, when ordered or directed by the officer in charge (OIC) of the fire department or any of his assistants, prevent any person or persons from entering any building or upon any grounds.

D. It shall be the duty of every officer of the law enforcement department to report to his superior officer all property seized or found by him immediately after the same shall have come into his possession, and such superior officer shall report the same to the sheriff, with the date of delivery and description thereof, and the name of the person depositing the same shall be entered in a book kept for that purpose.

E. It shall be the duty of every officer of the law enforcement department, on observing or being informed of the opening or excavating in any street, avenue or alley within the city and county, to require the person making such opening or excavation to exhibit the authority or permission therefor; and if no permit has been given by the proper officer or if the exhibition thereof is refused, such law enforcement officer shall, without delay, report the same to the department of public works of the city and county of Butte-Silver Bow. (Ord. 345 § 1 (part), 1989)

2.20.191 Badges.

Every officer of the law enforcement department shall wear a suitable badge to be approved and furnished by the council. Any officer who loses or destroys the same shall be required to pay the cost of replacing it. Whenever any officer leaves the law enforcement department, he shall immediately deliver his badge to the sheriff. (Ord. 345 § 1 (part), 1989)

2.20.192 Entire devotion of time.

A. It is declared that it is in the interest of the public health, safety, welfare and morals of the city and county of Butte-Silver Bow that the active officers of the law enforcement department be solely engaged and devote their exclusive time and service to the law enforcement department.

B. All active officers of the law enforcement department shall from and after the effective date of the ordinance codified in this chapter devote their exclusive time and service to the law enforcement department. It is unlawful for any active officer of the law enforcement department to be otherwise employed or engaged for profit in a regular and usual course of employment, occupation or livelihood without approval of the law enforcement department. The law enforcement department may limit the type or scope of outside employment, or may prohibit it altogether. (Ord. 345 § 1 (part), 1989)

2.20.200 Purpose.

The purpose of this chapter is to establish a structure of organization and to establish positions of rank for officers of the law enforcement department in accordance with the provisions of the Charter of Butte-Silver Bow and to define the duties and responsibilities of the law enforcement department. (Ord. 345 § 1 (part), 1989)

2.20.210 Scope.

The primary function of the law enforcement department is the enforcement of the laws of the state of Montana and of the city and county of Butte-Silver Bow. In order to effectively execute the enforcement of the law it is necessary to create specialized divisions within the department, and it is further necessary to appoint officers to positions of rank commensurate with duties assigned to have

charge and supervision over those specialized divisions. (Ord. 345 § 1 (part), 1989)

2.20.220 Definitions.

As used in this chapter the following words shall have the following meanings:

A. "Butte-Silver Bow" means the local government of the city and county of Butte-Silver Bow, state of Montana, and includes all its offices, agencies, boards, bureaus and commissions and further includes all that area within the boundaries of the city and county of Butte-Silver Bow, Montana.

B. "Chief executive" means the chief executive of the city and county of Butte-Silver Bow.

C. "City and county" means the local government of the city and county of Butte-Silver Bow, state of Montana, and includes all its offices, agencies, boards, bureaus and commissions and further includes all that area within the boundaries of the city and county of Butte-Silver Bow, Montana.

D. "Council" means the council of commissioners of the city and county of Butte-Silver Bow.

E. "Department" means the law enforcement department of the city and county of Butte-Silver Bow.

F. "Government" means the local government of the city and county of Butte-Silver Bow.

G. "Law enforcement commission" means the law enforcement commission of the city and county of Butte-Silver Bow.

H. "Law enforcement department" means the law enforcement department of the city and county of Butte-Silver Bow.

I. "Law enforcement officer" means a duly appointed and acting law enforcement officer of the city and county of Butte-Silver Bow, whether probationary or permanent.

J. "Sheriff" means the sheriff of the city and county of Butte-Silver Bow.

K. "Undersheriff" means the undersheriff of Butte-Silver Bow. (Ord. 345 § 1 (part), 1989)

#### 2.20.230 Sheriff--Chief officer.

The sheriff shall be the chief law enforcement officer of the department. The sheriff shall manage and control all matters relating to the law enforcement department, its officers and members. The sheriff shall have the custody of all property, equipment, books, records and other property belonging to said department. (Charter Section 5.05) (Ord. 345 § 1 (part), 1989)

#### 2.20.240 Sheriff--Reports.

The sheriff shall furnish a monthly activity report of the department to the council by the third Wednesday of each following month and shall by August 1st of each year furnish the council with a summary of the activity of the department for the preceding fiscal year, and the sheriff shall furnish to the chief executive and council any information relative to the department as may be requested. (Ord. 345 § 1 (part), 1989)

#### 2.20.250 Undersheriff--Creation of office.

There is created and established the position of undersheriff in the law enforcement department. (Charter Section 5.05(h)) (Ord. 345 § 1 (part), 1989)

#### 2.20.260 Undersheriff--Duties.

The undersheriff shall assist the sheriff in the exercise of his duties and during the sheriff's absence or inability to act, the undersheriff shall perform all duties of the sheriff. (Ord. 345 § 1 (part), 1989)

#### 2.20.270 Undersheriff--Appointment.

When a vacancy occurs in the position of the undersheriff, the sheriff may fill such vacancy by appointing a person, qualified by training and experience, to fill such position without the approval of the law enforcement commission or the council, but such appointee shall acquire no tenure rights except those established tenure rights he has at the time of his appointment. If such appointed undersheriff has been a member of the department prior to his appointment and not continued in such position by the sheriff, he shall revert to the former rank he held within the department. (Section 5.05(h), Butte-Silver Bow Charter) (Ord. 345 § 1 (part), 1989)

#### 2.20.280 Creation of divisions.

The sheriff may establish, maintain or eliminate the divisions of administration, operations and investigation within the law enforcement department. (Ord. 345 § 1 (part), 1989)

#### 2.20.290 Captains--Creation of office.

There is created and established the rank of captain in the law enforcement department. No more than three officers shall hold the rank of captain at any one time. There may be nominated by the sheriff and with the consent of the council appointed by him a captain of the administration division, a captain of the operations division and a captain of the investigation division. (Ord. 345 § 1 (part), 1989)

#### 2.20.300 Captains--Duties.

The captains shall assist the sheriff and the undersheriff in the exercise of their duties.

A. The administrative captain shall be responsible for administrative management, reporting directly to the sheriff and undersheriff.

B. The operations captain shall be responsible for operations management, reporting directly to the sheriff and undersheriff.

C. The investigation division captain shall be responsible for investigative management, reporting directly to the sheriff and undersheriff. (Ord. 345 § 1 (part), 1989)

#### 2.20.310 Captains--Appointment.

The captains shall be appointed to that rank in accordance with the provisions of this chapter. (Ord. 345 § 1 (part), 1989)

#### 2.20.320 Lieutenants--Creation of office.

There is created and established the rank of lieutenant in the law enforcement department. There may be nominated by the sheriff and with the consent of the council appointed by him no more than six officers to hold the rank of lieutenant at any one time. (Ord. 345 § 1 (part), 1989)

#### 2.20.330 Lieutenants--Duties.

The lieutenants shall assist the sheriff and undersheriff and captains in the exercise of their duties. (Ord. 345 § 1 (part), 1989)

#### 2.20.340 Lieutenants--Appointment.

The lieutenants shall be appointed to that rank by the sheriff, in accordance with the provisions of this chapter, with the advice and consent of the council. (Ord. 345 § 1 (part), 1989)

#### 2.20.350 Sergeants--Creation of office.

There is created and established the rank of sergeant in the law enforcement department. (Ord. 345 § 1 (part), 1989)

#### 2.20.360 Sergeants--Duties.

The sergeants shall assist the sheriff, the undersheriff, the captains and the lieutenants in the exercise of their duties. (Ord. 345 § 1 (part), 1989)

#### 2.20.370 Sergeants--Appointment.

The sergeants shall be appointed to that rank by the sheriff, in accordance with the provisions of this chapter, with the advice and consent of the council. (Ord. 345 § 1 (part), 1989)

### Chapter 2.24

#### LAW ENFORCEMENT COMMISSION

##### Sections:

2.24.010 Purpose.

2.24.020 Scope.

2.24.030 Definitions.

2.24.040 Law enforcement commission established--Qualifications.

2.24.050 Charges, hearing and role of law enforcement commission.

2.24.060 Procedure at hearing on charges against law enforcement officer.

2.24.070 Decision by law enforcement commission.

2.24.080 Enforcement of decision.

2.24.090 Hearing required prior to dismissal of law enforcement officer.

2.24.100 Temporary suspensions.

2.24.110 District Court review.

2.24.010 Purpose.

The purpose of this chapter is to provide for an appointed commission of citizens of the city and county of Butte-Silver Bow to examine applicants for appointment to and officers for promotion within the law enforcement department and to hear, try and decide all charges brought against any member or officer of the law enforcement department. (Ord. 344 § 1 (part), 1989)

2.24.020 Scope.

The Butte-Silver Bow law enforcement commission shall have the authority to examine all applicants whose applications have been referred to the commission as to their age, time of service, legal, mental, moral and physical qualifications and their ability to fill the office as a member or ranking officer of the law enforcement department. The law enforcement commission shall also have the jurisdiction and duty to hear and try all charges against members and officers, all in accordance with the provisions of the Montana Municipal Police Force Law and the Butte-Silver Bow Local Government Charter. (Ord. 344 § 1 (part), 1989)

2.24.030 Definitions.

A. "Butte-Silver Bow" means the local government of the city and county of Butte-Silver Bow, state of Montana, and includes all its offices, agencies, boards, bureaus and commissions and further includes all that area within the boundaries of the city and county of Butte-Silver Bow, Montana.

B. "Chief executive" means the chief executive of the city and county of Butte-Silver Bow.

C. "City and county" means the local government of the city and county of Butte-Silver Bow, state of Montana, and includes all its offices, agencies, boards, bureaus and commissions and further includes all that area within the boundaries of the city and county of Butte-Silver Bow, Montana.

D. "Clerk and recorder" means the clerk and recorder of the city and county of Butte-Silver Bow.

E. "Commission" means the law enforcement commission of the city and county of Butte-Silver Bow.

F. "Council" means the council of commissioners of the city and county of Butte-Silver Bow.

G. "County attorney" means the county attorney of the city and county of Butte-Silver Bow.

H. "Government" means the local government of the city and county of Butte-Silver Bow.

I. "Law enforcement commission" means the law enforcement commission of the city and county of Butte-Silver Bow and includes all its individual members.

J. "Law enforcement department" means the law enforcement department of the city and county of Butte-Silver Bow.

K. "Law enforcement officer" means a member or officer of the law enforcement department who has been appointed to the law enforcement department pursuant to the provisions of Part 41 of Chapter 32 of Title 7, Montana Code Annotated (Montana Municipal Police Force Law), and Section 5.05(d) of the Butte-Silver Bow Charter.

L. "Sheriff" means the sheriff of the city and county of Butte-Silver Bow. (Ord. 344 § 1 (part), 1989)

2.24.040 Law enforcement commission established--Qualifications.

A. There is created a commission to be known by the name of Butte-Silver Bow law enforcement commission. This commission shall consist of five members to be appointed by the chief executive and confirmed by the council and



includes the members of the commission who have been appointed to the commission pursuant to the provisions of Part 41 of Chapter 32 of Title 7, Montana Code Annotated (Montana Municipal Police Force Law), and Section 5.05(e) of the Butte-Silver Bow Charter. All members of the commission must be qualified electors of Butte-Silver Bow.

B. The members of the commission shall hold office for three years and at least one such member must be appointed at the first regular meeting of the commissioners of each year. However, a member serving on the commission during the hearing or deciding of a case under the provisions of this chapter shall continue to serve on the commission for that case until a decision has been made; a new member may not sit on the commission for such business.

C. Members may be removed for cause by a two-thirds majority of the council upon written charges and after public hearing.

D. Vacancies on the commission shall be filled for the unexpired term of any member whose term becomes vacant in the same manner as members are originally appointed and confirmed.

E. At the first meeting after appointment the commission shall elect a chairman and vice-chairman to serve for a period to be set by the commission.

F. No member of the commission may be related to any member of the law enforcement department by blood or marriage up to and including the fourth degree.

G. The compensation of the members of the commission shall be fixed at twenty-five dollars per month. (Section 7-32-4151 MCA, 1985) (Section 5.05(e), Butte-Silver Bow Charter) (Ord. 344 § 1 (part), 1989)

#### 2.24.050 Charges, hearing and role of law enforcement commission.

Charges brought against any member of the law enforcement department shall be treated in the manner set out in Section 7-32-4155 MCA, et seq., with the modifications and inclusions as hereinafter provided.

A. The law enforcement commission shall have the jurisdiction and it shall be its duty to hear, try and decide all charges brought by any person or persons against any member or officer of the law enforcement department, including any charge that such member or officer:

1. Is incompetent or has become incapacitated, by age, disease or otherwise, to discharge the duties of his office;
2. Has been guilty of neglect of duty, of misconduct in his office or of conduct unbecoming a law enforcement officer;
3. Has been found guilty of any crime;
4. Has violated any of the rules of the law enforcement department; or
5. Whose conduct has been such as to bring reproach on the law enforcement department.

It is the duty of the law enforcement commission, at the time set for hearing a charge against a law enforcement officer, to forthwith proceed to hear, try and determine the charge according to the rules of evidence applicable to courts of record in the state.

B. Any charge brought against any member of the law enforcement department must be in writing in the form required by the law enforcement commission, and a copy thereof must be served upon the accused officer or member at least fifteen days before the time fixed for the hearing of such charge.

1. The place for filing charges brought against any officer of the law enforcement department shall be at the office of the Butte-Silver Bow clerk and recorder. One original and eight copies of such charges shall be deposited with the clerk and recorder. An original copy of such charges shall be mailed or delivered by the clerk and recorder to the Butte-Silver Bow County attorney, the Butte-Silver Bow sheriff and each member of the law enforcement commission. The remaining copy shall be served upon the accused at least fifteen days before the time fixed for hearing of such charge.

The charges need not be in any particular form but must include:

- a. The name of the officer against whom the charge is brought;
- b. The name of the person making the charge;
- c. A clear and particular description of the charge against the accused officer, including the approximate date, time, place and nature of the acts or omissions concerning which the complaint is made:
  - i. Citing the statute, ordinance, departmental rule or regulation which the accused officer is alleged to have violated,
  - ii. Stating the facts constituting the offense in ordinary and concise language and in such manner as to enable a person of common understanding to know what is intended,
  - iii. Stating the date, time and place of the offense as definitely as can be done,
  - iv. And such charge must be dated and signed by the person making the charge;
- d. The clerk and recorder will maintain a file of the charges in his office and keep a record of the dates of filing of each instrument or writing relating thereto.

2. Hearing on charges brought against an officer of the law enforcement department shall be held in the chambers of the council or at such other place as the chairman of the law enforcement commission may designate. Notice of the time, date and place of the hearing shall be mailed or delivered by the clerk and recorder to each of the persons named in subdivision 1 of this subsection.

C. The accused shall have the right to be present at the trial in person and by counsel and to be heard and to give and furnish evidence in his defense.

D. All trials shall be open to the public.

E. The chairman or acting chairman of the law enforcement commission shall have power to issue subpoenas, attested in its name, to compel the attendance of witnesses at the hearing, and any person duly served with a subpoena is bound to attend in obedience thereto. The law enforcement commission shall have the same authority to enforce obedience to the subpoena and to punish the disobedience thereof as is possessed by a judge of the district court in like cases; provided, however, that punishment for disobedience is subject to review by the district court of the Second Judicial District of Montana, Butte-Silver Bow County, Montana. (Section 7-32-4155 MCA, Section 7-32-4156 MCA, Section 7-32-4157 MCA, Section 7-32-4158 MCA and Section 7-32-4159 MCA) (Ord. 02-12 § 1, 2002; Ord. 344 § 1 (part), 1989)

2.24.060 Procedure at hearing on charges against law enforcement officer.

At the hearing on charges brought against a member of the law enforcement department, the person making the charge or his attorney will provide evidence and witnesses on his behalf and in support of the charges. At the conclusion of the charging party's case, the accused officer may produce evidence and witnesses on his behalf. He may also testify if he wishes to do so. Both the person making the charge and the person charged, or their lawyers, may question the witnesses brought by the other. The county attorney or one of his assistants shall act as counsel to the law enforcement commission. In all hearings each member of the law enforcement commission and the county attorney or his assistant may ask such additional questions as he considers necessary or advisable. As stated in Section 7-32-4155(2) MCA, the rules of evidence applicable to courts of record in the state shall apply to the hearing before the law enforcement commission, and the chairman of the law enforcement commission or such member of the law enforcement commission as he may designate at the commencement of the hearing, shall make all rulings with respect to the admissibility of evidence, with the advice and counsel of the county attorney. (Ord. 344 § 1 (part), 1989)

2.24.070 Decision by law enforcement commission.

A. The law enforcement commission must, after the conclusion of the hearing or trial, decide whether the charge was proven or not proven and shall have the power, by a decision of a majority of the commission, to discipline, suspend, remove or discharge any officer who shall have been found guilty of the charge filed against him.

B. Such action of the law enforcement commission shall, however, be subject to modification or veto by the chief executive, made in writing and giving reasons therefor, which shall become a permanent record of the law enforcement commission; provided, however, that where and when the law enforcement commission decides the charge not proven, the decision is final and conclusive and is not subject to modification or veto by the chief executive or to any review.

C. Where the law enforcement commission decides the charge proven, the chief executive, within five days from the date of the filing of such findings and decision with the clerk and recorder, may modify or veto such findings and decision.

D. At the conclusion of the hearing, the law enforcement commission shall adjourn to private session and by vote of a majority shall make findings of fact and cause such findings to be reduced to writing and signed by such majority and filed with the clerk and recorder, together with its decision, signed by the majority. If the decision be that the charge is proven, then the law enforcement commission, by vote of the majority, shall determine upon the discipline, suspension, removal or discharge of the officer found guilty of such charge, reduce the same to writing and file the same with the clerk and recorder, who shall notify the chief executive and the sheriff of its filing. When the charge is found proven, the law enforcement commission, in its sole discretion and acting upon its own initiative, may meet and interview the officer found guilty or any other person with reference to suitable discipline and may review any official law enforcement department personnel files concerning such officer before making or entering its order with reference to such discipline, suspension, removal or discharge, but no member of the law enforcement commission shall discuss such matter individually or outside of a meeting to the law enforcement commission, except as otherwise provided by law. (Section 7-32-4160 MCA) (Ord. 344 § 1 (part), 1989)

2.24.080 Enforcement of decision.

When a charge against a member of the law enforcement department is found proven by the law enforcement commission and is not vetoed by the chief executive, the chief executive must make an order enforcing the decision of the law enforcement commission or the decision as modified, if modified by the chief executive. Such decision or order shall be subject to review by the District Court of the Second Judicial District of Montana, Butte-Silver Bow County, Montana, on all questions of fact and all questions of law. (Section 7-32-4161 MCA) (Ord. 344 § 1 (part), 1989)

2.24.090 Hearing required prior to dismissal of law enforcement officer.

In no case shall any officer or member of the law enforcement department be discharged without a hearing or trial before the law enforcement commission as provided in Section 2.24.050(a). (Ord. 02-12 § 2, 2002: Ord. 344 § 1 (part), 1989)

2.24.100 Temporary suspensions.

A member or officer of the law enforcement department may be suspended as follows:

The sheriff shall have the power in all cases to suspend a member of the law enforcement department for a period not exceeding ten days in any one month, such suspension to be with or without pay as the order of suspension may determine. Any officer suspended, with or without pay, is entitled to appeal such suspension to the law enforcement commission within ten days of receipt of the notice of suspension from the sheriff. No officer shall begin serving the suspension until ten days after receipt of the notice of suspension, unless that officer waives in writing his/her right to appeal. Notice of suspension must be personally served upon the officer suspended and a copy of the notice of suspension indicating the date the officer was served shall be filed with the chairman of the law enforcement commission. Filing of notice of appeal stays imposition of suspension. No officer may file a notice of appeal after he/she has served the suspension. The appeal to the law enforcement commission shall be a hearing de novo and the law enforcement commission shall be empowered to reverse, or affirm or modify the suspension in any manner. (Ord. 02-12 § 3, 2002; Ord. 344 § 1 (part), 1989)

#### 2.24.110 District Court review.

The District Court of the Second Judicial District of Montana, Butte-Silver Bow County, Montana, shall have jurisdiction to review all questions of fact and all questions of law in a suit brought by any officer or member of the law enforcement department, but no suit to review such hearing or trial or for reinstatement to office shall be maintained unless the same is begun within a period of sixty days after the decision of the law enforcement commission or order of the chief executive has been filed with the clerk and recorder. (Section 7-32-4164 MCA) (Ord. 344 § 1 (part), 1989)

### Chapter 2.28

#### BOARD OF HEALTH

##### Sections:

2.28.010 Created--Composition--Members' terms and removal--Vacancy filling--Officers' election--Compensation.  
2.28.020 Quorum--Meetings.  
2.28.030 Financing.  
2.28.040 Functions, powers and duties.  
2.28.050 Health officer--Appointment--Salary--Functions and duties.  
2.28.060 Cooperation with State Department of Health and Environmental Sciences.

2.28.010 Created--Composition--Members' terms and removal--Vacancy filling--Officers' election--Compensation.

A. There is created a board of health consisting of seven members to be appointed by the chief executive and confirmed by the council of commissioners which shall have jurisdiction of the Butte-Silver Bow health department. At least three members of the board shall be of the health care professions. All members of the board must reside within the jurisdictional area of Butte-Silver Bow.

B. The members of this board shall hold office for three years. The chief executive shall appoint seven members of such board, two to serve for one year, three to serve for two years, and two to serve for three years.

C. Members may be removed for cause by a two-thirds majority of the council of commissioners upon written charges and after public hearing.

D. Vacancies on the board shall be filled for the unexpired term of any member whose term becomes vacant in the same manner as members are originally appointed and confirmed.

E. At the first meeting after appointment, the board shall elect a chairman and vice-chairman to serve for a period to be set by the board.

F. Board members shall serve without compensation. Board members shall be reimbursed for actual expenses incurred in the performance of their duties in the same manner as employees of Butte-Silver Bow government are reimbursed. (Ord. 68 § 1, 1978)

#### 2.28.020 Quorum--Meetings.

A majority of the members of the board shall constitute a quorum for the transaction of business.

The board shall adopt rules to govern its meetings which meetings shall be held at least once a month at the call of the chairman and at such other times as the board may determine. All meetings of the board shall comply with the provisions of the Montana Open Meeting Law. The board shall keep minutes of its proceedings showing the vote of each member upon each question and shall provide a monthly report of its proceedings to the chief executive and the council of commissioners by the tenth of the ensuing month. (Ord. 68 § 2, 1978)

#### 2.28.030 Financing.

The board will be financed by general fund appropriations or special levies and by state and federal funds available, after approval of a budget by the council of commissioners in the way provided for other Butte-Silver Bow offices and departments. Funds shall be accounted for in the same manner provided for other Butte-Silver Bow offices and departments. (Ord. 68 § 3, 1978)

#### 2.28.040 Functions, powers and duties.

In addition to the other provisions of this chapter, the board shall:

- A. Adopt bylaws to govern meetings;
- B. Employ the necessary, qualified staff to carry out health programs;
- C. Have authority to comply with and enforce the state statutes and regulations relative to local boards of health as provided in Title 69 Chapter 45 of the Revised Codes of Montana, as amended;
- D. Make reports to the chief executive and council of commissioners on matters which may be requested by the chief executive. (Ord. 68 § 4, 1978)

#### 2.28.050 Health officer--Appointment--Salary--Functions and duties.

The board shall appoint a health officer who is a physician licensed to practice in the state, a person with a master's degree in public health, or a person who has equivalent and appropriate experience as determined by the board. The board shall set the salary of the health officer. The health officer shall serve at the pleasure of the board, shall act as secretary of the board, and shall carry out the policies of the board. (Ord. 68 § 5, 1978)

#### 2.28.060 Cooperation with State Department of Health and Environmental Sciences.

The board shall maintain a close working relationship with the State Department of Health and Environmental Sciences in the adoption of standards, development of competency needed to meet local health problems, use of expert consultive services available, and in obtaining state and federal funds to meet the public health needs of the community. (Ord. 68 § 6, 1978)

## CIVIC CENTER BOARD

### Sections:

- 2.32.010 Purpose.
- 2.32.020 Scope.
- 2.32.030 Definitions.
- 2.32.040 Created?Composition?Members' terms and removal?Vacancy filling?Officers' election.
- 2.32.050 Meetings?Monthly reports.
- 2.32.060 Agreements for use of civic center.

#### 2.32.010 Purpose.

The purpose of this chapter is to provide for an appointed board of citizens of Butte-Silver Bow to supervise the affairs and management of the Butte-Silver Bow civic center. (Ord. 52 § 1, 1978)

#### 2.32.020 Scope.

The Butte-Silver Bow civic center board shall have the authority to enter into agreements for the use of the Butte-Silver Bow civic center and to supervise the management and affairs of the civic center. (Ord. 52 § 2, 1978)

#### 2.32.030 Definitions.

The following definitions are provided for the sole purpose of proper interpretation and administration of this chapter:

- A. "Board" means the Butte-Silver Bow civic center board.
- B. "Chief executive" means the chief executive of Butte-Silver Bow.
- C. "Civic center" means the Butte-Silver Bow civic center.
- D. "Commission" means the council of commissioners of Butte-Silver Bow.
- E. "Government" means the local government of Butte-Silver Bow. (Ord. 52 § 3, 1978)

#### 2.32.040 Created--Composition--Members' terms and removal--Vacancy filling--Officers' election.

A. There is created a board to supervise the affairs and management of the civic center, which board shall consist of five members to be appointed by the chief executive and confirmed by the council of commissioners. All members of the board must reside within the jurisdictional area of Butte-Silver Bow.

B. The members of this board shall hold office for three years and at least one such member must be appointed at the first regular meeting of the council of commissioners of each year; provided, that at the first meeting of the council of commissioners after passage of this chapter, the chief executive shall appoint five members of such board, two to serve for one year, one to serve for two years, and two to serve for three years.

C. Members may be removed for cause by a two-thirds majority of the confirming authority upon written charges and after public hearing.

D. Vacancies on the board shall be filled for the unexpired term of any member whose term becomes vacant in the same manner as members are originally appointed and confirmed.

E. At the first meeting after appointment, the board shall elect a chairman and vice-chairman to serve for a period to be set by the board. (Ord. 52 § 4, 1978)

#### 2.32.050 Meetings--Monthly reports.

The board shall adopt rules to govern its meetings, which meetings shall be held at the call of the chairman and at such other times as the board may determine. All meetings of the board shall be open to the public. The board

shall keep minutes of its proceedings showing the vote of each member upon each question and shall provide a monthly report of its proceedings to the chief executive and the council of commissioners by the tenth of the ensuing month. (Ord. 52 § 5, 1978)

#### 2.32.060 Agreements for use of civic center.

All agreements for the use of the civic center must be approved by a majority of the board and signed by the chairman on a form to be approved by the council of commissioners. No agreement authorized under this section shall be for a period exceeding six months in length without approval of the council of commissioners. (Ord. 52 § 6, 1978)

### Chapter 2.36

#### PARK AND RECREATION BOARD

##### Sections:

- 2.36.010 Purpose.
- 2.36.020 Scope.
- 2.36.030 Definitions.
- 2.36.040 Created?Members' appointment, terms and removal?Vacancy filling?Officers' election.
- 2.36.050 Meetings.
- 2.36.060 Duties.
- 2.36.065 Sale, lease or exchange of dedicated park land.
- 2.36.070 Park and recreation director.
- 2.36.080 Agreements.
- 2.36.090 Civic center excluded.

#### 2.36.010 Purpose.

The purpose of this chapter is to provide for an appointed board of citizens of Butte-Silver Bow to supervise the affairs and management of Butte-Silver Bow park and recreational facilities. (Ord. 88 § 1, 1979)

#### 2.36.020 Scope.

The Butte-Silver Bow park and recreation board shall have the authority to enter into agreements as provided in Section 2.36.080 for the operation and care of Butte-Silver Bow park and recreational facilities and to supervise the management and affairs of said park and recreational facilities. (Ord. 88 § 2, 1979)

#### 2.36.030 Definitions.

The following definitions are provided for the sole purpose of proper interpretation and administration of this chapter:

- A. "Board" means the Butte-Silver Bow park and recreation board.
- B. "Butte-Silver Bow" means the local government of the city and county of Butte-Silver Bow, state of Montana, and includes all of that area within its jurisdiction.
- C. "Chief executive" means the chief executive of Butte-Silver Bow.
- D. "City-county" means the local government of the city and county of Butte-Silver Bow, state of Montana, and includes all of that area within its jurisdiction.
- E. "Council" means the council of commissioners of Butte-Silver Bow.
- F. "Government" means the local government of Butte-Silver Bow.

G. "Park" means all parks and public gardens belonging to Butte-Silver Bow and all trees and other plants upon the streets, avenues, boulevards and public places within Butte-Silver Bow.

H. "Recreational facilities" means all swimming pools, skating rinks, playgrounds, community centers, youth centers, gymnasiums, museums, recreation centers and municipal golf courses belonging to or operated by agreement with Butte-Silver Bow. (Ord. 373 § 1, 1990: Ord. 88 § 3, 1979)

2.36.040 Created--Members' appointment, terms and removal--Vacancy filling--Officers' election.

A. There is created a board to supervise the affairs and management of Butte-Silver Bow park and recreational facilities, which board shall consist of five members to be appointed by the chief executive and confirmed by the council. All members of the board must be qualified electors of Butte-Silver Bow.

B. The members of this board shall hold office for three years and at least one such member must be appointed at the first regular meeting in May of the council of each year; provided, that at the first meeting of the council after passage of the ordinance codified in this chapter, the chief executive shall appoint five members of such board, two to serve for one year, one to serve for two years and two to serve for three years.

C. Members may be removed for cause by a two-thirds majority of the confirming authority upon written charges and after public hearing.

D. Vacancies on the board shall be filled for the unexpired term of any member whose term becomes vacant in the same manner as members are originally appointed and confirmed.

E. At the first meeting after appointment the board shall elect a chairman and vice-chairman to serve for a period to be set by the board. (Ord. 88 § 4, 1979)

2.36.050 Meetings.

The board shall adopt rules to govern its meetings which meetings shall be held at the call of the chairman and at such other times as the board may determine. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings showing the vote of each member upon each question and shall provide a monthly report of its proceedings to the chief executive and the council by the tenth of the ensuing month. (Ord. 88 § 5, 1979)

2.36.060 Duties.

The board shall establish policy for the management of all parks and recreational facilities and shall designate the character and quality of all trees and flora planted in such parks. The board shall make rules necessary to protect and promote the growth of trees and plants in such parks. The board shall also make rules for the use of park and recreational facilities by the public. (Ord. 88 § 6, 1979)

2.36.065 Sale, lease or exchange of dedicated park land.

For the purpose of this section lands dedicated to the city-county for public use for park or playground purpose under Section 76-3-606 and 76-3-607, MCA or a similar statute or pursuant to any instrument conveying land to Silver Bow County or the city of Butte for public use for park or playground purposes are considered city-county lands.

A. The city-county may not sell, lease, or exchange lands dedicated for park or playground purposes except as provided under this section and part 25 of chapter 8 of Title 7, MCA.

B. Prior to selling, leasing, or exchanging any city-county land dedicated to public use for park or playground purposes the city-county shall:



1. Compile an inventory of all public parks and playgrounds within the city-county;
  2. Prepare a comprehensive plan for the provision of outdoor recreation and open space within the city-county;
  3. Determine that the proposed sale, lease, or exchange furthers or is consistent with the city-county's outdoor recreation and open space comprehensive plan;
  4. Publish notice as provided in Section 7-1-2121, MCA of intention to sell, lease or dispose of such lands, giving the people of the city-county opportunity to be heard regarding such action; and
  5. Comply with any other applicable requirements under part 25 of chapter 8 of Title 7, MCA.
- C. Any revenue realized from the sale, exchange, or disposal of lands dedicated to public use for park or playground purposes shall be paid into the park fund and used in the manner prescribed in Section 76-3-606 and 76-3-607, MCA, for cash received in lieu of dedication. (Ord. 373 § 2, 1990)

2.36.070 Park and recreation director.

The board, taking into consideration education and appropriate experience, may recommend qualifications for the position of park and recreation director. The park and recreation director shall be appointed by the chief executive and confirmed by the council. (Ord. 88 § 7, 1979)

2.36.080 Agreements.

All agreements for the use, operation and care of park and recreational facilities must be approved by a majority of the board and signed by the chairman on a form to be approved by the council. No agreement for the use of park and recreational facilities shall be for a period exceeding thirty days in length without approval of the council. (Ord. 88 § 8, 1979)

2.36.090 Civic center excluded.

The terms of this chapter shall not apply to the operation of the Butte-Silver Bow civic center or to any authority granted to the Butte-Silver Bow civic center board according to the provisions of Chapter 2.32. (Ord. 88 § 9, 1979)

Chapter 2.40

PLANNING BOARD

Sections:

- 2.40.010 Purpose.
- 2.40.015 Created.
- 2.40.020 Object.
- 2.40.030 Scope.
- 2.40.040 Definitions.
- 2.40.050 Jurisdiction.
- 2.40.060 Created?Composition?Members' appointment, terms and removal?Vacancy filling?Officers' election.
- 2.40.070 Meetings.

2.40.010 Purpose.

The purpose of this chapter is to provide for an appointed board of citizens of Butte-Silver Bow in order to promote the orderly development of Butte-Silver Bow. (Ord. 67 § 1, 1978)

2.40.015 Created.

The Butte-Silver Bow planning board is created as a city planning board pursuant to the provisions of Section 76-1-221, MCA. In accordance with the provisions of Section 7-5-201(1), MCA, necessary changes have been made in the statutes to accommodate the structure of the consolidated Butte-Silver Bow city-county government. (Ord. 423 § 1, 1992)

2.40.020 Object.

It is the object of this chapter to encourage the local government of Butte-Silver Bow to improve the present health, safety, convenience and welfare of its citizens and to plan for the future development of the community to the end that highway systems be carefully planned; that new community centers grow only with adequate highway, utility, health, educational and recreational facilities; that the needs of agriculture, industry and business be recognized in future growth; that residential areas provide healthy surroundings for family growth; and that the growth of the community be commensurate with and promotive of the efficient economical use of public funds. (Ord. 67 § 2, 1978)

2.40.030 Scope.

The Butte-Silver Bow planning board shall serve in an advisory capacity to the government of Butte-Silver Bow. (Ord. 67 § 3, 1978)

2.40.040 Definitions.

The following definitions are provided for the sole purpose of proper interpretation and administration of this chapter:

- A. "Board" means the Butte-Silver Bow planning board.
- B. "Chief executive" means the chief executive of Butte-Silver Bow.
- C. "Council" means the council of commissioners of Butte-Silver Bow.
- D. "Government" means the local government of Butte-Silver Bow. (Ord. 67 § 4, 1978)

2.40.050 Jurisdiction.

The Jurisdictional Area of the Butte-Silver Bow planning board shall be identical to and coextensive with the boundaries of Butte-Silver Bow; excepting, however, that area contained within the corporate limits of the incorporated city of Walkerville. (Ord. 67 § 5, 1978)

2.40.060 Created--Composition--Members' appointment, terms and removal--Vacancy filling--Officers' election.

A. There is created a Butte-Silver Bow planning board which board shall consist of nine members to be appointed as follows:

- 1. One member to be appointed by the council of commissioners from its membership;
- 2. One member to be appointed by the council of commissioners who may in the discretion of the council be an employee or hold public office within Butte-Silver Bow;
- 3. Seven citizen members to be appointed by the chief executive. Such citizen members shall hold no other office in the Butte-Silver Bow government. All members of the board must reside within the jurisdictional area described in Section 2.40.050.

B. The members of the board shall hold office for two years and at least four such members must be appointed at the first regular meeting of the council of commissioners of each year; provided, that at the first meeting of the council of commissioners after passage of the ordinance codified in this chapter, the council shall appoint two members of such board, one to serve for one year and one to serve for two years; and the chief executive shall appoint

seven members of such board, three to serve for one year and four to serve for two years.

C. Members may be removed for cause by a majority vote of the council upon written charges and after public hearing.

D. Vacancies on the board shall be filled for the unexpired term of any member whose term becomes vacant in the same manner as members are originally appointed.

E. At the first meeting after appointment, the board shall elect a chairman and vice-chairman to serve for a period to be set by the board. (Ord. 67 § 6, 1978)

#### 2.40.070 Meetings.

The board shall adopt rules to govern its meetings which meetings shall be held at the call of the chairman and at such other times as the board may determine in accordance with the laws of the state. The board shall meet at least once in the months of January, April, July and October. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings showing the vote of each member upon each question and shall file a monthly report of its proceedings by the tenth of the ensuing month. (Ord. 67 § 8, 1978)

### Chapter 2.44

#### PUBLIC LIBRARY BOARD

##### Sections:

2.44.010 Purpose.

2.44.020 Scope.

2.44.030 Definitions.

2.44.040 Created?Composition?Members' appointment, terms and removal?Vacancy filling?Officers' election.

2.44.050 Meetings?Monthly reports.

2.44.060 Chief librarian?Appointment?Function.

2.44.070 Agreements for operation of public library.

#### 2.44.010 Purpose.

The purpose of this chapter is to provide for an appointed board of citizens of Butte-Silver Bow to supervise the affairs and management of the Butte-Silver Bow public library. (Ord. 69 § 1, 1978)

#### 2.44.020 Scope.

The Butte-Silver Bow public library board shall have the authority to enter into agreements for the operation and care of the Butte-Silver Bow public library and to supervise the management and affairs of the public library. (Ord. 69 § 2, 1978)

#### 2.44.030 Definitions.

The following definitions are provided for the sole purpose of proper interpretation and administration of this chapter:

"Board" means the Butte-Silver Bow public library board.

"Chief executive" means the chief executive of Butte-Silver Bow.

"Council" means the council of commissioners of Butte-Silver Bow.

"Government" means the local government of Butte-Silver Bow.

"Public library" means the Butte-Silver Bow public library. (Ord. 69 § 3, 1978)

2.44.040 Created--Composition--Members' appointment, terms and removal--  
Vacancy filling--Officers' election.

A. There is created a board to supervise the affairs and management of the public library, which board shall consist of five members to be appointed by the chief executive and confirmed by the council of commissioners. All members of the board must reside within the jurisdictional area of Butte-Silver Bow.

B. The members of the board shall hold office for three years and at least one such member must be appointed at the first regular meeting of the council of commissioners of each year; provided, that at the first meeting of the council of commissioners after passage of the ordinance codified in this chapter, the chief executive shall appoint five members of such board, two to serve for one year, one to serve for two years, and two to serve for three years.

C. Members may be removed for cause by a two-thirds majority of the confirming authority upon written charges and after public hearing.

D. Vacancies on the board shall be filled for the unexpired term of any member whose term becomes vacant in the same manner as members are originally appointed and confirmed.

E. At the first meeting after appointment, the board shall elect a chairman and vice-chairman to serve for a period to be set by the board. (Ord. 69 § 4, 1978)

2.44.050 Meetings--Monthly reports.

The board shall adopt rules to govern its meetings which meetings shall be held at the call of the chairman and at such other times as the board may determine. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings showing the vote of each member upon each question and shall provide a monthly report of its proceedings to the chief executive and the council of commissioners by the tenth of the ensuing month. (Ord. 69 § 5, 1978)

2.44.060 Chief librarian--Appointment--Function.

The board shall appoint and set the compensation of a chief librarian who shall serve as the secretary of the board and shall serve at the pleasure of the board. (Ord. 69 § 6, 1978)

2.44.070 Agreements for operation of public library.

All agreements for the operation of the public library must be approved by a majority of the board and signed by the chairman on a form to be approved by the council of commissioners. No agreement authorized under this section shall be for a period exceeding six months in length without approval of the council of commissioners. (Ord. 69 § 7, 1978)

## Chapter 2.48

### ZONING BOARD OF ADJUSTMENT

#### Sections:

2.48.010 Enforcement officer?Duties assigned.

2.48.020 Board?Created?Members' appointment, terms and removal?Vacancy filling.

2.48.030 Board?Meetings and proceedings.

2.48.040 Board?Powers.

2.48.050 Board?Voting?Quorum.

2.48.060 Appeals?Procedure.

2.48.070 Appeals?Stay of proceedings.

- 2.48.080 Appeals?Hearing.
- 2.48.090 Right of appeal.
- 2.48.100 Court review of decision.
- 2.48.110 Original papers.
- 2.48.120 Testimony.
- 2.48.130 Costs of appeal.

2.48.010 Enforcement officer--Duties assigned.

Those duties providing for the enforcement of the provisions of zoning resolutions for the districts of Floral Park, Hillcrest, Home Atherton, Skyway Park and Ramsay which were previously passed and adopted by the board of county commissioners of the former government of Silver Bow County, Montana, are assigned to the zoning code enforcement officer of the government of Butte-Silver Bow. Appeal of any decision of the enforcing officer may be made to the board of adjustment. (Ord. 7 § 1, 1977)

2.48.020 Board--Created--Members' appointment, terms and removal--Vacancy filling.

A. There is created a zoning board of adjustment which shall consist of five members to be appointed by the chief executive and confirmed by the council of commissioners. All members of the board must reside within the jurisdictional boundaries of the Butte-Silver Bow city-county planning board and at least two of the members shall be resident freeholders of Butte-Silver Bow.

B. The term of each such member shall be three years, and they may be removed for cause by a two-thirds majority of the confirming authority upon written charges and after public hearing.

C. Vacancies on the board shall be filled for the unexpired term of any member whose term becomes vacant in the same manner as members are originally appointed. (Ord. 7 § 2, 1977)

2.48.030 Board--Meetings and proceedings.

The board shall adopt rules to govern its proceedings which rules may not be inconsistent with that zoning ordinance adopted by the city council of the former city of Butte or of those zoning resolutions and regulations adopted by the county commissioners of the former government of Silver Bow County, Montana, or the laws of the state. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record. (Ord. 7 § 3, 1977)

2.48.040 Board--Powers.

The board shall have the following powers:

A. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the enforcing officer in the enforcement of this chapter or the laws of the state pertaining to zoning;

B. To hear and decide special exceptions to the terms of zoning ordinances and resolutions upon which such board is required to pass;

C. To authorize upon appeal in specific cases such variance from the terms of zoning ordinances adopted by the city council of the former city of Butte or of those zoning resolutions and regulations adopted by the county commissioners of the former government of Silver Bow County, Montana, as will not be contrary to the public interest, where, owing to special conditions, a

literal enforcement of the provisions of the zoning ordinances and resolutions will result in unnecessary hardship, and so that the spirit of the zoning ordinances and resolutions shall be observed and substantial justice done;

D. In exercising the abovementioned powers, such board may, in conformity with the provisions of these zoning ordinances and resolutions, reverse or affirm, whole or partly, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. (Ord. 7 § 7, 1977)

#### 2.48.050 Board--Voting--Quorum.

The concurring vote of seventy-five percent of the voting members of the board shall be necessary to reverse any order, requirement, decision or determination of the enforcing officer, or to decide in favor of the applicant on any matter upon which it is required to pass under zoning ordinances and resolutions, or to effect any variation in zoning ordinances and resolutions. Three members shall constitute a quorum. (Ord. 7 § 8, 1977)

#### 2.48.060 Appeals--Procedure.

Appeals to the board may be taken by any person aggrieved or by any officer, department, board or bureau of Butte-Silver Bow affected by any decision of the enforcing officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the board a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all papers constituting the record upon which the action appealed was taken. (Ord. 7 § 4, 1977)

#### 2.48.070 Appeals--Stay of proceedings.

In case of appeal as set forth in Section 2.48.060, proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the board or by a court of record directed to the officer from whom the appeal is taken and on good cause shown. (Ord. 7 § 5, 1977)

#### 2.48.080 Appeals--Hearing.

The board shall fix a reasonable time for the hearing of the appeal, give public notice thereof as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by attorney. (Ord. 7 § 6, 1977)

#### 2.48.090 Right of appeal.

A. Any person or persons, jointly or severally, aggrieved by any decision of the board, or any taxpayer, or any officer, department, board or bureau of Butte-Silver Bow, may present to the council of commissioners or the district court a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the council of commissioners or the district court within thirty days after the filing of the decision in the office of the board.

B. When the decision of the board is appealed to the council of commissioners, the clerk and recorder shall forthwith place the appeal on the agenda of the next regular meeting of the council at which meeting the council of commissioners shall schedule a public hearing on the appeal within fifteen days. The appeal to the council of commissioners will stay proceedings in the same manner as provided in Section 2.48.070. Upon hearing the appeal, the council of commissioners will consider the record and such additional evidence as may be presented and thereupon affirm, reverse, or modify the decision in

whole and substitute such other determination as it may find warranted under this chapter. The final decision by the council of commissioners shall be transcribed by the clerk and recorder forthwith and a copy thereof served promptly on the appellant and the board.

C. Any person aggrieved by the decision of the council of commissioners, or any taxpayer, or any officer, board or bureau of Butte-Silver Bow may appeal such decision to the district court in the same manner as provided in this chapter for direct court appeal from decisions of the board. (Ord. 7 § 9, 1977)

#### 2.48.100 Court review of decision.

Upon the presentation of petition as set forth in Section 2.48.090, the court may allow a writ of certiorari directed to the council of commissioners to review such decision of the council of commissioners and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the council of commissioners and on due cause shown, grant a restraining order. (Ord. 7 § 10, 1977)

#### 2.48.110 Original papers.

The council of commissioners shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified. (Ord. 7 § 11, 1977)

#### 2.48.120 Testimony.

If, upon the hearing, it appears to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review. (Ord. 7 § 12, 1977)

#### 2.48.130 Costs of appeal.

Costs shall not be allowed against the board unless it appears to the court that it acted with gross negligency, or in bad faith, or with malice in making the decision appealed from. (Ord. 7 § 13, 1977)

### Chapter 2.52

#### DEPARTMENT OF PUBLIC WORKS

##### Sections:

2.52.010 Performance of examining land surveyor's duties.

2.52.020 Review of surveys and plats.

#### 2.52.010 Performance of examining land surveyor's duties.

The duties and functions of an examining land surveyor, as required by the legislature of the state of Montana in accordance with the provisions of Chapter 38, Title 11 of the Revised Codes of Montana, 1947, as amended, shall be assigned to and performed by the department of public works of Butte-Silver Bow, state of Montana. (Ord. 42 § 1, 1977)

2.52.020 Review of surveys and plats.

All surveys and plats submitted for filing to the clerk and recorder of Butte-Silver Bow shall be reviewed by the examining land surveyor of Butte-Silver Bow, state of Montana. (Ord. 42 § 2, 1977)

Chapter 2.56

PUBLIC ARCHIVES

Sections:

Article I. Administration

- 2.56.010 Purpose.
- 2.56.020 Definition of noncurrent records.
- 2.56.030 Availability of records.
- 2.56.040 Authorization for removal or destruction.
- 2.56.050 Acceptance of other archival material.
- 2.56.060 Illegal acts?Misdemeanor.
- 2.56.070 Reproduction of material.

Article II. Board

- 2.56.100 Purpose.
- 2.56.110 Scope.
- 2.56.120 Definitions.
- 2.56.130 Establishment.
- 2.56.140 Meetings.
- 2.56.150 Director of the archives.
- 2.56.160 Agreements.

Article I. Administration

2.56.010 Purpose.

This article creates the Butte-Silver Bow public archives, whose purpose is to be the official repository of all noncurrent records of Butte-Silver Bow government and the previous separate entities of the city of Butte and Silver Bow County, excepting those records which state law requires must be permanently held in other offices of Butte-Silver Bow. (Ord. 125 § 1, 1981)

2.56.020 Definition of noncurrent records.

Noncurrent records are defined as all records of all branches of Butte-Silver Bow that are over ten years old. Special arrangements may be made between the director of the archives and the heads of departments to allow noncurrent records to remain in the original office if they are needed for current use. The chief executive of Butte-Silver Bow shall arbitrate such arrangements if there is disagreement between the director of the archives and the department head. (Ord. 125 § 2, 1981)

2.56.030 Availability of records.

All public records held in the archives shall be available for use in the archives by the general public unless prohibited by state law. Records which are in fragile condition may be copied by the archives staff and copies made available in place of the original when it is deemed necessary by the director of the archives. (Ord. 00-5 § 1, 2000: Ord. 125 § 3, 1981)

2.56.040 Authorization for removal or destruction.



No public record shall be removed from the archives or destroyed without authorization of the Montana local government records committee. See Section 2-6-403, MCA. (Ord. 00-5 § 2, 2000: Ord. 125 § 4, 1981)

2.56.050 Acceptance of other archival material.

The board of the archives shall have permission to accept other archival material such as written, typed or printed records, photographs, tape recordings, maps, film or other material of historical significance that might be donated or loaned by private individuals or groups. Such arrangements shall be in the form of a written contract with terms agreeable to both parties. The archives will also provide public access to collections in its care and ensure that professional and discrete service is provided to members of the public. The archives will assist schools and organizations in the community to encourage the use of historical documents in learning environments. (Ord. 00-5 § 3, 2000: Ord. 125 § 5, 1981)

2.56.060 Illegal acts--Misdemeanor.

Wilful damage, destruction, removal or unauthorized possession of any official record of Butte-Silver Bow, the city of Butte or Silver Bow County or any other collected material owned by or on loan to, the Butte-Silver Bow public archives shall be illegal, and any person perpetrating such an act shall be guilty of a misdemeanor. Jurisdiction of such violations shall be in the city court of Butte-Silver Bow. (Ord. 125 § 6, 1981)

2.56.070 Reproduction of material.

Reproduction of archival material shall be at the discretion of the board of the archives, unless conflicting contract supersedes. (Ord. 125 § 7, 1981)

Article II. Board

2.56.100 Purpose.

The purpose of this article is to provide for an appointed board of citizens of Butte-Silver Bow to supervise the affairs and management of the Butte-Silver Bow public archives. (Ord. 126 § 1, 1981)

2.56.110 Scope.

The Butte-Silver Bow public archives board shall have the authority to enter into agreements for the operation and care of the Butte-Silver Bow public archives and to supervise the management and affairs of the public archives. (Ord. 126 § 2, 1981)

2.56.120 Definitions.

The following definitions are provided for the sole purpose of proper interpretation and administration of this article:

- A. "Board" means the Butte-Silver Bow public archives board.
- B. "Chief executive" means the chief executive of Butte-Silver Bow.
- C. "Council" means the council of commissioners of Butte-Silver Bow.
- D. "Director" means the director of the public archives.
- E. "Government" means the local government of Butte-Silver Bow.
- F. "Public archives" means the Butte-Silver Bow public archives. (Ord. 00-5 § 4, 2000: Ord. 126 § 3, 1981)

2.56.130 Establishment.

There is created a board to supervise the affairs and management of the public archives, which board shall consist of seven members to be appointed by the chief executive and confirmed by the council of commissioners. All members of the board must reside within the jurisdictional area of Butte-Silver Bow.

A. The members of this board shall hold office for three years and at least one such member must be appointed at the first regular meeting of the council of commissioners of each year. Provided that at the first meeting of the council of commissioners after the passage of the ordinance codified in this chapter, the chief executive shall appoint seven members of such board, two to serve for one year, three to serve for two years and two to serve for three years.

B. Members may be reappointed for additional three-year terms.

C. Members may be removed for cause by a two-thirds majority of the confirming authority upon written charges and after public hearing.

D. Vacancies of the board shall be filled for the expired term of any member whose term becomes vacant in the same manner as members are originally appointed and confirmed.

E. At the first meeting after appointment, the board shall elect a chairman and vice-chairman to serve for a period to be set by the board. (Ord. 00-5 § 5, 2000: Ord. 126 § 4, 1981)

#### 2.56.140 Meetings.

The board shall adopt rules to govern its meetings which meetings shall be open to the public, except as provided by law. The board shall keep minutes of its proceedings and shall provide an annual report of its proceedings to the chief executive and council of commissioners. (Ord. 00-5 § 6, 2000: Ord. 126 § 5, 1981)

#### 2.56.150 Director of the archives.

The board shall recommend to the chief executive a director of the archives. The chief executive shall appoint the director of the archives who shall serve at the pleasure of the chief executive. (Ord. 126 § 6, 1981)

#### 2.56.160 Agreements.

All agreements for the operation of the public archives must be approved by a majority of the board and signed by the chairman on a form to be approved by the council of commissioners. No agreement authorized under this section shall be for a period exceeding six months in length without approval of the council of commissioners. (Ord. 00-5 § 7, 2000: Ord. 126 § 7, 1981)

### Chapter 2.60

#### HANDICAPPED ADVISORY COMMITTEE

##### Sections:

2.60.010 Purpose.

2.60.020 Scope.

2.60.030 Definitions.

2.60.040 Established.

2.60.050 Meetings.

#### 2.60.010 Purpose.

The purpose of this chapter is to provide for an appointed committee of citizens of the city and county to advise staff on Butte-Silver Bow's compliance activities with Section 504 of the Rehabilitation Act of 1973, and to address community concerns related to equal access for handicapped citizens; specific, but not exclusive to architectural modifications, employment practices and policies, transportation, housing and community resources in the city and county. (Ord. 153 § 1, 1981)

2.60.020 Scope.

A. The handicapped advisory committee shall have the authority to advise and direct administrative department heads to comply with reasonable requests pertaining to Section 504 of the 1973 Rehabilitation Act with:

1. Each department assuming compliance responsibilities;
2. Section 504 responsibilities integrated into the ongoing duties of the department staff.

B. The above request will be made in writing to the responsible administrator, and carried out within the interim meeting times of the committee. As this committee will meet quarterly, a ninety-day compliance period will be allowed. Should noncompliance occur, it shall be the responsibility of the department head to respond to the committee in writing, detailing reasons for noncompliance. This response shall be reviewed by the committee as a whole for:

1. Continuance; or
2. Referral to the chief executive for resolution.

C. Should the latter occur, the chief executive shall respond to the committee and department heads, in writing, within two weeks of receipt of the committee request, with a decision. (Ord. 153 § 2, 1981)

2.60.030 Definitions.

The following definitions are provided for the sole purpose of proper interpretation and administration of this chapter:

A. "Act" means Rehabilitation Act of 1973, Public Law 93-112, found at 29 USC 706.

B. "Committee" means the Butte-Silver Bow handicapped advisory committee. (Ord. 153 § 3, 1981)

2.60.040 Established.

There is created a committee to consist of nine members, to be appointed by the chief executive, and confirmed by the council of commissioners. All members of this committee must reside within the jurisdictional area of the city and county and one-third of these members must consist of disabled persons. Members of this committee shall serve a three-year term of office excepting, however, those members of the initial committee who shall serve terms as follows:

Two members of the initial committee shall serve three-year terms; three members of the initial committee shall serve two-year terms; and four members of the initial committee shall serve one-year terms. Members may be removed, for cause, by two-third majority of the confirming authority, upon written charges. Vacancies on the committee shall be filled for the unexpired terms of any member whose term becomes vacant in the same manner as members were originally appointed and confirmed. At the first meeting after appointment, the committee shall elect a chairman and vice chairman to serve for a period to be set by the committee. (Ord. 153 § 4, 1981)

2.60.050 Meetings.

The committee shall adopt rules to govern its meetings. These meetings will be held at least quarterly, at the call of the chairman, or other times as the committee may determine. All meetings shall be open to the public. The committee shall keep minutes of its proceedings, showing the vote of each member of each question, and shall provide, to the chief executive, and council of commissioners, a report of its proceedings by the tenth of the ensuing month. (Ord. 153 § 5, 1981)

## ADVISORY COMMITTEE FOR AMERICANS WITH DISABILITIES ACT

### Sections:

- 2.62.010 Purpose.
- 2.62.020 Scope.
- 2.62.030 Definitions.
- 2.62.040 Establishment of committee--Members.
- 2.62.050 Meetings of committee.

#### 2.62.010 Purpose.

The purpose of this chapter is to provide for an appointed committee of citizens of the city and county of Butte-Silver Bow, to advise staff on Butte-Silver Bow's compliance activities with the Americans with Disabilities Act (ADA) of 1990, and to address community concerns related to equal access for disabled citizens specific, but not exclusive to architectural modifications, employment practices and policies, transportation, housing, and community resources in the city-county. (Ord. 450 § 1, 1993)

#### 2.62.020 Scope.

The Butte-Silver Bow ADA committee shall have the authority to advise and direct the ADA management team and administrative department heads concerning the Americans with Disabilities Act of 1990 with:

- A. Each department assuming compliance responsibilities.
- B. ADA responsibilities integrated into the on-going duties of the department staff. (Ord. 450 § 2, 1993)

#### 2.62.030 Definitions.

The following definitions are provided for the sole purpose of proper interpretation and administration of this chapter:

"Act" means Americans with Disabilities Act of 1990, founded at 42 USC 12101.

"Committee" means the Butte-Silver Bow ADA advisory committee. (Ord. 450 § 3, 1993)

#### 2.62.040 Establishment of committee?Members.

A. There is created a committee to consist of twelve members to be appointed by the chief executive, and confirmed by the council of commissioners. All members of this committee must reside within the jurisdictional area of the city and county of Butte-Silver Bow, and one-third of these members must consist of disabled persons.

B. Members of this committee shall serve a three-year term of office excepting, however, those members of the initial committee who shall serve terms as follows: three members of the initial committee shall serve three-year terms, four members of the initial committee shall serve two-year terms, and five members of the initial committee shall serve one-year terms.

C. Members may be removed, for cause, by two-third majority of the confirming authority, upon written charges. Vacancies on the committee shall be filled for the unexpired terms of any member whose term becomes vacant in the same manner as members were originally appointed and confirmed. At the first meeting after appointment, the committee shall elect a chairman, and vice chairman to serve for a period to be set by the committee. (Ord. 450 § 4, 1993)

#### 2.62.050 Meetings of committee.

The committee shall adopt rules to govern its meetings. These meetings will be held at least quarterly, at the call of the chairman, or other times as the committee may determine. All meetings shall be open to the public. The

committee shall keep minutes of its proceedings, showing the vote of each member on each question, and shall provide, to the chief executive, and council of commissioners, a report of its proceedings by the tenth of the ensuing month. (Ord. 450 § 5, 1993)

## Chapter 2.64

### HISTORIC PRESERVATION COMMISSION

#### Sections:

- 2.64.010 Purpose and intent.
- 2.64.020 Objective.
- 2.64.030 Scope.
- 2.64.040 Definitions.
- 2.64.050 Establishment.
- 2.64.060 Appointment?Term?Vacancy.
- 2.64.070 Powers and duties.
- 2.64.080 Preservation officer?Appointment and duties.
- 2.64.090 Meetings.

#### 2.64.010 Purpose and intent.

The purpose and intent of this chapter is as follows:

A. To provide for an appointed group of citizens of the city and county of Butte-Silver Bow charged with establishing a local historic preservation program, integrating historic preservation into local, state and federal planning and decision-making processes and identifying, evaluating and protecting historic resources within the city and county of Butte-Silver Bow's historic overlay zoning districts;

B. To provide for a historic rehabilitation tax abatement review committee. (Ord. 396 § 1, 1991: Ord. 267 § 1(A), 1986: Ord. 239 § 1, 1985)

#### 2.64.020 Objective.

A. The objective of the Butte-Silver Bow historic preservation commission is to establish a local historic preservation program designed to promote the preservation of historic and pre-historic sites, structures, buildings and historic districts by addressing historic preservation issues at the local level and integrating them into local, state and federal planning and decision-making processes. The historic preservation program will include the identification, evaluation and protection of historic resources within the city and county of Butte-Silver Bow's historic overlay zoning districts.

B. The preservation commission will review tax abatement application requests of applicants proposing to restore, rehabilitate or expand certified historic buildings or structures or construct new buildings within the historic districts and to report their findings to the Butte-Silver Bow council of commissioners. (Ord. 396 § 2, 1991: Ord. 267 § 1(B), 1986: Ord. 239 § 2, 1985)

#### 2.64.030 Scope.

The Butte-Silver Bow historic preservation commission shall serve in an advisory capacity to the local government of the city and county of Butte-Silver Bow on matters which may impact the historic overlay zoning districts and applications for historic rehabilitation tax abatement. (Ord. 396 § 2,\* 1991: Ord. 267 § 1(C), 1986: Ord. 239 § 3, 1985)

\* Ordinance No. 396 contained 2 sections numbered 2.

#### 2.64.040 Definitions.

A. "Historic district" means those properties within the city and county of Butte-Silver Bow which have been officially recognized by the Secretary of the United States Department of the Interior as nationally significant by contributing to the understanding of national, state and local history.

1. The Butte national historic landmark district is generally described as being bounded on the south by the railroad right-of-way south of Front Street, by May Street on the west, by the Berkley Pit on the east, and the town of Walkerville on the north.

2. The Ramsey national historic landmark district is generally described as being located in Silver Bow County. (See description attached to the ordinance codified in this chapter, on file in the office of the city clerk and recorder.)

B. "Butte-Silver Bow" means the local government of the city and county of Butte-Silver Bow, state of Montana, and where applicable, includes its officers, employees, agencies, boards and commissions.

C. "Community historic preservation officer" hereinafter called "preservation officer" means the official appointed by the local government who shall serve as the secretary to the preservation commission under the supervision of the chief executive.

D. "Council of commissioners" means the governing body of the local government of the city and county of Butte-Silver Bow, state of Montana.

E. "Historic overlay zoning district" means a special zoning designation which shall apply to all properties within the boundaries established in Section 17.33.030 of this code in order to protect the historical significance of existing structures by prohibiting the undue moving, removal and demolition of said structures. The zoning regulations applicable to a historic overlay zoning district shall be in addition to the established zoning currently applied to all properties within the historic overlay zoning district and shall not affect the permitted uses and/or development standards of said underlying zones.

F. "Historic preservation commission," hereinafter called the "preservation commission," means the commission created by this chapter and appointed by the local government of the city and county of Butte-Silver Bow which is responsible for creating and administering a historic preservation program within the historic overlay zoning district.

G. "Certified historic building" means any building that is listed individually in the National Register of Historic Places or located in a registered historic district and certified by the local government as contributing to the historic significance of the district.

H. "Historic rehabilitation tax abatement review committee" means the committee created by this chapter and appointed by the local government of the city and county of Butte-Silver Bow which is responsible for hearing tax abatement application requests and reporting its findings to the Butte-Silver Bow council of commissioners. (Ord. 396 § 3, 1991; Ord. 239 § 4, 1985)

#### 2.64.050 Establishment.

In order to carry out the purpose of this chapter, an historic preservation commission is created. This preservation commission shall consist of five residents of the city and county of Butte-Silver Bow and, inasmuch as possible, shall consist of the following mix:

A. Three members with professional expertise in the disciplines of history, planning, archaeology, architecture, architectural history, historic archaeology or other historic preservation related disciplines such as cultural geography or cultural anthropology.

B. Two members who may include a local owner of property within the historic district overlay zone or a realtor licensed in the state of Montana. (Ord. 239 § 5, 1985)

2.64.060 Appointment--Term--Vacancy.

A. All appointments to the preservation commission will be made by the chief executive subject to confirmation by the council of commissioners.

B. Terms of office of the preservation commission members shall be staggered and shall be two years in duration. For the initial term of members of the preservation commission, two members shall be appointed for one year and three members shall be appointed for two years. There is not a limit of the number of consecutive terms served by any one member.

C. Vacancies on the commission shall be filed within sixty days by appointment by the chief executive and are subject to the confirmation of the council of commissioners for the unexpired portion of the term. (Ord. 239 § 6, 1985)

2.64.070 Powers and duties.

The preservation commission shall have the power to:

A. Maintain a system for the survey and inventory of historic and prehistoric properties. The preservation commission shall maintain this inventory of identified districts, sites and/or structures within the historic overlay zoning district and make this information available to the public;

B. Use the National Register of Historic Places criteria for designation of properties as a historic district or site and shall apply these criteria for local designation of historic and prehistoric properties within the historic overlay zoning district;

C. Participate in the process of nominating to the National Register of Historic Places according to the Montana State Regulations for Certified Local Governments, Section VI #B. This includes reviewing and commenting on any National Register nominations on property within the historic overlay zoning district;

D. Review and comment on planning programs undertaken by the local government of Butte-Silver Bow, state and federal agencies which relate to historic resources such as land use, municipal improvements, housing, and other types of planning which may impact the historic overlay zoning district;

E. Consult with city-county, state and federal agencies on all applications, environmental assessments, environmental impact statements, and other similar documents pertaining to the historic overlay zoning district. Comments by the preservation commission shall be sent to the council of commissioners with appropriate recommendations;

F. Review the local zoning regulations for their applicability to the characteristics of the historic overlay zoning district and make appropriate recommendations to the planning board concerning any changes or modifications to the zoning regulations and zoning district boundaries;

G. Make recommendations to the zoning board of adjustments to approve or disapprove applications for permits within the historic overlay zone;

H. Render advice and guidance upon request of the property owner as to the restoration, alteration, decoration, landscaping or maintenance of potentially historic buildings or structures. The preservation commission shall provide design guidelines which will be made available to the public for assistance in preservation projects;

I. Participate in, promote, and conduct public information, educational, and interpretive programs pertaining to historic preservation;

J. Review permits for demolition, removal or moving of buildings, structures, headframes and appurtenant elements within the historic overlay zoning district and hold public hearings to approve or deny issuance of the

permit. Any decision of the preservation commission may be appealed to the council of commissioners;

K. Provide a means of informing owners of property, buildings and structures located within the historic overlay zoning district of potential tax incentives and federal and/or state grants that might be obtained through the preservation of historic facilities;

L. Make recommendations to the council of commissioners to approve or disapprove historic rehabilitation tax abatement application requests;

M. Design and develop appropriate design standards for restoration, rehabilitation or expansion of certified historic buildings and new construction within historic districts or combinations thereof;

N. Make recommendations to the council of commissioners to reject all tax benefits conferred, if the building is altered and has a detrimental affect on the overall appearance;

O. Make recommendations to the council of commissioners to amend regulations, policies and procedures of the historic rehabilitation tax abatement program. (Ord. 396 § 5, 1991; Ord. 267 § 1(D), (E), (F), 1986; Ord. 239 § 9, 1985)

#### 2.64.080 Preservation officer--Appointment and duties.

A. The preservation officer for Butte-Silver Bow shall act as secretary to the preservation commission. He/she will be appointed by the chief executive and subject to confirmation by the council of commissioners.

B. The preservation officer must have a demonstrated interest, competence and knowledge in historic preservation.

C. Duties of the preservation officer include, but are not limited to, coordinating the local historic preservation programs, helping in the development of local surveys, projects, and historic preservation planning documents, advising and providing assistance to the historic preservation commission, governmental agencies, and the public, and insuring, to the extent practicable, that the duties and responsibilities delegated by this chapter are carried out. (Ord. 239 § 7, 1985)

#### 2.64.090 Meetings.

A. All meetings shall be held in the public forum in accordance with the Montana State Open Meeting Law. Notice of the meetings will be calculated to reach all interested and affected members of the community in sufficient time to enable them to participate.

B. The preservation commission shall establish its bylaws conforming to the Montana Certified Local Government Program and make all minutes, reports and case decisions available to the public. (Ord. 239 § 8, 1985)

### Chapter 2.68

#### FIRE COMMISSION

##### Sections:

- 2.68.010 Purpose.
- 2.68.020 Scope.
- 2.68.030 Definitions.
- 2.68.040 Fire commission established--Qualifications.
- 2.68.050 Charges, hearing and role of fire commission.
- 2.68.060 Procedure at hearing on charges against firefighter.
- 2.68.070 Decision by fire commission.
- 2.68.080 Enforcement of decision.
- 2.68.090 Hearing required prior to dismissal of firefighter.
- 2.68.100 Temporary suspensions.



2.68.110 District Court review.

2.68.010 Purpose.

The purpose of this chapter is to provide for an appointed commission of citizens of the city and county of Butte-Silver Bow to examine applicants for appointment to and officers for promotion within the fire department and to hear, try and decide all charges brought against any member or officer of the fire department. (Ord. 343 § 1 (part), 1989)

2.68.020 Scope.

The Butte-Silver Bow fire commission shall have the authority to examine all applicants whose applications have been referred to the commission as to their age, time of service, legal, mental, moral and physical qualifications and their ability to fill the office as a member or ranking officer of the fire department. The fire commission shall also have the jurisdiction and duty to hear and try all charges against members and officers of the fire department. (Ord. 343 § 1 (part), 1989)

2.68.030 Definitions.

A. "Butte-Silver Bow" means the local government of the city and county of Butte-Silver Bow, state of Montana, and includes all its offices, agencies, boards, bureaus and commissions and further includes all that area within the boundaries of the city and county of Butte-Silver Bow, Montana.

B. "Chief executive" means the chief executive of the city and county of Butte-Silver Bow.

C. "City and county" means the local government of the city and county of Butte-Silver Bow, state of Montana, and includes all its offices, agencies, boards, bureaus and commissions and further includes all that area within the boundaries of the city and county of Butte-Silver Bow, Montana.

D. "Clerk and recorder" means the clerk and recorder of the city and county of Butte-Silver Bow.

E. "Commission" means the fire commission of the city and county of Butte-Silver Bow.

F. "Council" means the council of commissioners of the city and county of Butte-Silver Bow.

G. "County attorney" means the county attorney of the city and county of Butte-Silver Bow.

H. "Government" means the local government of the city and county of Butte-Silver Bow.

I. "Fire commission" means the fire commission of the city and county of Butte-Silver Bow and includes all its individual members.

J. "Fire department" means the paid fire department of the city and county of Butte-Silver Bow.

K. "Firefighter" means a member or officer of the paid fire department who has been appointed to the fire department pursuant to the provisions of Part 41 of Chapter 33 of Title 7, Montana Code Annotated, and Section 7.03(b) of the Butte-Silver Bow Charter and Butte-Silver Bow Ordinance No. 270.

L. "Director of fire services" means the appointed head of the paid fire department of the city and county of Butte-Silver Bow. (Ord. 02-11 § 1, 2002; Ord. 343 § 1 (part), 1989)

2.68.040 Fire commission established--Qualifications.

A. There is created a commission to be known by the name of Butte-Silver Bow fire commission. This commission shall consist of five members to be appointed by the chief executive and confirmed by the council. All members of the commission must be qualified electors of Butte-Silver Bow.

B. The members of the commission shall hold office for three years and at least one such member must be appointed at the first regular meeting of the commissioners of each year. However, a member serving on the commission during the hearing or deciding of a case under the provisions of this chapter shall continue to serve on the commission for that case until a decision has been made. A new member may not sit on the commission for such business.

C. Members may be removed for cause by a two-thirds majority of the council upon written charges and after public hearing.

D. Vacancies on the commission shall be filled for the unexpired term of any member whose term becomes vacant in the same manner as members are originally appointed and confirmed.

E. At the first meeting after appointment the commission shall elect a chairman and vice-chairman to serve for a period to be set by the commission.

F. No member of the commission may be related to any member of the fire department by blood or marriage up to and including the fourth degree. (Ord. 343 § 1 (part), 1989)

#### 2.68.050 Charges, hearing and role of fire commission.

Charges brought against any member of the fire department shall be treated in the manner set out in Section 7-33-4123, MCA, et seq., with the modifications and inclusions as hereinafter provided.

A. The fire commission shall have the jurisdiction and it shall be its duty to hear, try and decide all charges brought by any person or persons against any member or officer of the fire department, including any charge that such member or officer:

1. Is incompetent or has become incapacitated by age, disease or otherwise, to discharge the duties of his office;
2. Has been guilty of neglect of duty, of misconduct in his office or of conduct unbecoming a firefighter;
3. Has been found guilty of any crime;
4. Has violated any of the rules of the fire department; or
5. Whose conduct has been such as to bring reproach on the fire department.

It is the duty of the fire commission, at the time set for hearing a charge against a firefighter, to forthwith proceed to hear, try and determine the charge according to the rules of evidence applicable to courts of record in the state.

B. Any charge brought against any member of the fire department must be in writing in the form required by the fire commission, and a copy thereof must be served upon the accused officer or member at least fifteen days before the time fixed for the hearing of such charge.

1. The place for filing charges against any firefighter of the fire department shall be at the office of the Butte-Silver Bow clerk and recorder. One original and eight copies of such charges shall be deposited with the clerk and recorder. An original copy of such charges shall be mailed or delivered by the clerk and recorder to the Butte-Silver Bow County attorney, the Butte-Silver Bow director of fire services and each member of the fire commission. The remaining copy shall be served upon the accused at least fifteen days before the time fixed for hearing of such charge. The charges need not be in any particular form but must include:

- a. The name of the firefighter against whom the charge is brought;
- b. The name of the person making the charge;
- c. A clear and particular description of the charge against the accused firefighter, including the approximate date, time, place and nature of the acts or omissions concerning which the complaint is made:
  - i. Citing the statute, ordinance, departmental rule or regulation which the accused firefighter is alleged to have violated,

ii. Stating the facts constituting the offense in ordinary and concise language and in such manner as to enable a person of common understanding to know what is intended,

iii. Stating the date, time and place of the offense as definitely as can be done,

iv. And such charge must be dated and signed by the person making the charge;

d. The clerk and recorder will maintain a file of the charges in his office and keep a record of the dates of filing of each instrument or writing relating thereto.

2. Hearing on charges brought against a firefighter of the fire department shall be held in the chambers of the council or at such other place as the chairman of the fire commission may designate. Notice of the time, date and place of the hearing shall be mailed or delivered by the clerk and recorder to each of the persons named in subdivision 1 of this subsection.

C. The accused shall have the right to be present at the trial in person and by counsel and to be heard and to give and furnish evidence in his defense.

D. All trials shall be open to the public.

E. The chairman or acting chairman of the fire commission shall have power to issue subpoenas, attested in its name, to compel the attendance of witnesses at the hearing, and any person duly served with a subpoena is bound to attend in obedience thereto. The fire commission shall have the same authority to enforce obedience to the subpoena and to punish the disobedience thereof as is possessed by a judge of the district court in like cases; provided, however, that punishment for disobedience is subject to review by the District Court of the Second Judicial District of Montana, Butte-Silver Bow County, Montana. (Ord. 02-11 § 2, 2002; Ord. 343 § 1 (part), 1989)

#### 2.68.060 Procedure at hearing on charges against firefighter.

At the hearing on charges brought against a member of the fire department, the person making the charge, or his attorney, will produce evidence and witnesses on his behalf and in support of the charges. At the conclusion of the charging party's case, the accused firefighter may produce evidence and witnesses on his behalf. He may also testify if he wishes to do so. Both the person making the charge and the person charged, or their lawyers, may question the witnesses brought by the other. The county attorney or one of his assistants shall act as counsel to the fire commission. In all hearings each member of the fire commission and the county attorney or his assistant may ask such additional questions as he considers necessary or advisable. The rules of evidence applicable to courts of record in the state shall apply to the hearing before the fire commission, and the chairman of the fire commission or such member of the fire commission as he may designate at the commencement of the hearing, shall make all rulings with respect to the admissibility of evidence, with the advice and counsel of the county attorney. (Ord. 343 § 1 (part), 1989)

#### 2.68.070 Decision by fire commission.

A. The fire commission must, after the conclusion of the hearing or trial, decide whether the charge was proven or not proven and shall have the power, by a decision of a majority of the commission, to discipline, suspend, remove or discharge any firefighter who shall have been found guilty of the charge filed against him.

B. Such action of the fire commission shall, however, be subject to modification or veto by the chief executive, made in writing and giving reasons therefore, which shall become a permanent record of the fire commission; provided, however, that where and when the fire commission decides the charge

not proven, the decision is final and conclusive and is not subject to modification or veto by the chief executive or to any review.

C. Where the fire commission decides the charges proven, the chief executive, within five days from the date of the filing of such findings and decision with the clerk and recorder, may modify or veto such findings and decision.

D. At the conclusion of the hearing, the fire commission shall adjourn to private session and by vote of a majority shall make findings of fact and cause such findings to be reduced to writing and signed by such majority and filed with the clerk and recorder, together with its decision, signed by the majority. If the decision be that the charge is proven, then the fire commission, by vote of the majority, shall determine upon the discipline, suspension, removal or discharge of the firefighter found guilty of such charge, reduce the same to writing and file the same with the clerk and recorder, who shall notify the chief executive and the fire chief of its filing. When the charge is found proven, the fire commission, in its sole discretion and acting upon its own initiative, may meet and interview the firefighter found guilty or any other person with reference to suitable discipline and may review any official fire department personnel files concerning such firefighter before making or entering its order with reference to such discipline, suspension, removal or discharge, but no member of the fire commission shall discuss such matter individually or outside of a meeting of the fire commission, except as otherwise provided by law. (Ord. 343 § 1 (part), 1989)

#### 2.68.080 Enforcement of decision.

When a charge against a member of the fire department is found proven by the fire commission and is not vetoed by the chief executive, the chief executive must make an order enforcing the decision of the fire commission or the decision as modified, if modified by the chief executive. Such decision or order shall be subject to review by the District Court of the Second Judicial District of Montana, Butte-Silver Bow County, Montana, on all questions of fact and all questions of law. (Ord. 343 § 1 (part), 1989)

#### 2.68.090 Hearing required prior to dismissal of firefighter.

In no case shall any officer or member of the fire department be discharged without a hearing or trial before the fire commission. (Ord. 343 § 1 (part), 1989)

#### 2.68.100 Temporary suspensions.

A member or officer of the fire department may be suspended as follows:

The director of fire services shall have the power in all cases to suspend a member of the fire department for a period not exceeding ten days in any one month, such suspension to be with or without pay as the order of suspension may determine. Any firefighter suspended, with or without pay, is entitled to appeal such suspension to the fire commission within ten days of his receipt of his notice of suspension from the director of fire services. Notice of suspension must be personally served upon the firefighter suspended and a copy of the notice of suspension indicating the date the firefighter was served shall be filed with the chairman of the fire commission. No firefighter may file a notice of appeal after he has served his suspension. The appeal to the fire commission shall be a hearing de novo and the fire commission shall be empowered to reverse, or affirm or modify the suspension in any manner. (Ord. 02-11 § 3, 2003: Ord. 343 § 1 (part), 1989)

#### 2.68.110 District Court review.

The District Court of the Second Judicial District of Montana, Butte-Silver Bow County, Montana, shall have jurisdiction to review all questions of

fact and all questions of law in a suit brought by any officer or member of the fire department, but no suit to review such hearing or trial or for reinstatement to office shall be maintained unless the same is begun within a period of sixty days after the decision of the fire commission or order of the chief executive has been filed with the clerk and recorder. (Ord. 343 § 1 (part), 1989)

## Chapter 2.72

### SMALL BUSINESS INCUBATOR CENTER BOARDS

#### Sections:

- 2.72.010 Purpose.
- 2.72.020 Scope.
- 2.72.030 Definitions.
- 2.72.040 Executive board--Membership--Terms.
- 2.72.050 Executive board--Meetings--Reports.
- 2.72.060 Operations board--Membership--Terms.
- 2.72.070 Operations board--Meetings--Reports.
- 2.72.080 Operations board--Powers.
- 2.72.090 Operations board--Duties.
- 2.72.100 General manager.
- 2.72.110 Lease agreements.
- 2.72.120 Self-governing power.

#### 2.72.010 Purpose.

The purpose of this chapter is to provide for appointed boards of citizens to supervise the management and affairs of the Butte-Silver Bow small business incubator center. (Ord. 271 § 1, 1986)

#### 2.72.020 Scope.

The incubator center executive board shall have the authority to set policy for the small business incubator center. The operations board shall oversee operations and administration of the incubator center. (Ord. 271 § 2, 1986)

#### 2.72.030 Definitions.

As used in this chapter the following terms shall have the following meaning:

A. "Chief executive" means the chief executive of the city and county of Butte-Silver Bow, Montana.

B. "Community development department" means the Department of Community Development of the city and county of Butte-Silver Bow, Montana.

C. "Council of commissioners" means the council of commissioners of the city and county of Butte-Silver Bow, Montana.

D. "Executive board" means a group of individuals appointed by the chief executive and confirmed by the council of commissioners to establish policy for the operation and administration of the Butte-Silver Bow small business incubator center.

E. "Incubator center" means the small business incubator center, a facility owned by the city and county of Butte-Silver Bow, which was created to encourage the formation of new small businesses, assist in the expansion of existing small businesses, create new employment opportunities and thus expand the economic base of the city and county of Butte-Silver Bow, state of Montana.

F. "Local government" means the local government of the city and county of Butte-Silver Bow, state of Montana.

G. "Operations board" means a group of individuals appointed by the executive board members to assist the executive board and to oversee the operations and administration of the Butte-Silver Bow small business incubator center. (Ord. 271 § 3, 1986)

2.72.040 Executive board--Membership--Terms.

A. There is created an executive board to provide advice and counsel to the management and to the operations board of the incubator center, which executive board shall consist of five members to be appointed by the chief executive and confirmed by the council of commissioners.

B. At the first meeting of the council of commissioners after passage of this chapter the chief executive shall appoint five persons to serve as members of the initial executive board. Two persons shall be appointed to serve for a one year term, one person shall be appointed to serve a two year term and two persons shall be appointed to serve a three year term. Thereafter the members of the executive board shall hold office for three year terms and until their successors are appointed and qualified. At least one person must be appointed as a member of the executive board at the first regular meeting of the council of commissioners of each year.

C. Members of the executive board may be removed for cause by a two-thirds majority of the confirming authority upon written charges and after public hearing.

D. Vacancies on the executive board shall be filled for the unexpired term of any member whose term becomes vacant in the same manner as members are originally appointed and confirmed.

E. At the first meeting after appointment, the executive board shall elect a chairman and vice-chairman to serve for a period to be set by the executive board. (Ord. 271 § 4, 1986)

2.72.050 Executive board--Meetings--Reports.

The executive board shall adopt rules to govern the conduct of its meetings, which meetings shall be held quarterly at the call of the chairman and at such other times as the executive board may determine. All meetings of the executive board shall be open to the public. The executive board shall keep minutes of its proceedings showing the vote of each member upon each question shall provide a quarterly report of its proceedings to the chief executive and the council of commissioners within ten days after each quarterly meeting. (Ord. 271 § 9, 1986)

2.72.060 Operations board--Membership--Terms.

A. There is created an operations board to assist the executive board and to supervise the affairs and management of the incubator center. The operations board shall consist of five members to be appointed by the executive board. Each member of the executive board shall be entitled to nominate one member to serve on the operations board.

B. The members of the operations board shall hold office for one year. Members of the operations board shall be appointed at the first quarterly meeting of the executive board of each year.

C. Members of the operations board may be removed for cause by a concurring vote of at least three members of the executive board.

D. Vacancies on the operations board shall be filled for the unexpired term of any member whose term becomes vacant in the same manner as members are originally appointed.

E. At the first meeting after appointment, the operations board shall elect a chairman and vice-chairman to serve for a period to be set by the executive board. (Ord. 271 § 5, 1986)

2.72.070 Operations board--Meetings--Reports.

The operations board shall adopt rules to govern the conduct of its meetings, which meetings shall be held monthly at the call of the chairman and at such other times as the operations board may determine. The operations board shall keep minutes of its proceedings showing the vote of each member upon each question and shall provide a monthly report of its proceedings to the executive board. Such report shall be submitted to the executive board by the tenth of the ensuing month. (Ord. 271 § 10, 1986)

2.72.080 Operations board--Powers.

The operations board shall have the following powers:

A. To employ a qualified management consulting firm to direct the operation of the incubator center;

B. To enter into lease agreements with firms and individuals for the use of space at the incubator center, upon such terms and conditions as may seem reasonable to the operations board;

C. To apply for and accept sources of funding for the operation of the incubator center, including financial grants from state and federal government agencies and from private funding sources;

D. To manage all property, both real and personal, which is owned by the incubator center;

E. To establish a seed-capital fund which would permit the incubator center to provide financial assistance to new small business entities;

F. To provide for the maintenance and operation of the incubator center, including the authority to contract with firms and individuals for maintenance services. (Ord. 271 § 6, 1986)

2.72.090 Operations board--Duties.

The operations board is assigned the following duties to carry out the functions assigned to it by this chapter:

A. To actively participate in all start-up phases associated with the incubator center;

B. To establish a plan of action to formulate goals, objectives and strategies for the incubator center;

C. To identify and target those types of solvent businesses which will create long-term full-time employment positions within the incubator center;

D. To promote and actively market the use of the incubator center;

E. To establish guidelines for the form of lease agreements between the incubator center and its prospective tenants;

F. To create and implement a formal screening process to identify marginal business prospects;

G. To supervise the affairs and management of the incubator center. (Ord. 271 § 7, 1986)

2.72.100 General manager.

The community development department will employ a person qualified by training and experience to serve in the position of general manager of the incubator center. The general manager shall serve as secretary to the executive board and to the operations board. (Ord. 271 § 8, 1986)

2.72.110 Lease agreements.

All agreements for the use of the incubator center must be approved by a majority of the operations board and signed by the chairman on a form to be approved by the council of commissioners. (Ord. 271 § 11, 1986)

2.72.120 Self-governing power.

This chapter is enacted under the grant of self-governing power from the state of Montana to charter forms of local government as set out in Part 1, Chapter 1, Title 7, Montana Code Annotated. (Ord. 271 § 12, 1986)

## Chapter 2.76

### FRIENDS OF THE URBAN FOREST BOARD

#### Sections:

- 2.76.010 Purpose and intent.
- 2.76.020 Objective.
- 2.76.030 Powers and duties.
- 2.76.040 Definitions.
- 2.76.050 Establishment.
- 2.76.060 Appointment?Term?Vacancy.
- 2.76.070 Meetings.

#### 2.76.010 Purpose and intent.

The purpose and intent of this chapter is as follows:

A. To provide for an appointed board of citizens of the city and county of Butte-Silver Bow charged with promoting the development and oversight of a self-sustaining urban forestry program. (Ord. 354 § 1, 1989)

#### 2.76.020 Objective.

The objective of the Butte-Silver Bow friends of the urban forest board is to establish a local urban forestry program designed to mitigate past mining and smelting damage to native and ornamental trees and shrubs through the planting of street trees especially in those areas where the absence of trees and other vegetation is most evident and by establishing a tree nursery on land owned by the city and county of Butte-Silver Bow for the continuous growing of trees for transplanting in the urban area. (Ord. 354 § 2, 1989)

#### 2.76.030 Powers and duties.

A. The friends of the urban forest board shall serve to advise and give direction to the local government of the city and county of Butte-Silver Bow on matters relating to the planting of street trees and development and maintenance of a tree nursery. More specifically the friends of the urban forest board is charged with establishing an annual work plan which will include but not be limited to promotion of the project, site selection for planting of street trees, species selection, site preparation, appropriate soil analysis, budget and performance monitoring of overall project.

B. The urban forest board shall approve all contracts pertaining to the urban forestry program prior to submitting said contracts to the council of commissioners for approval. (Ord. 354 § 3, 1989)

#### 2.76.040 Definitions.

A. "Butte-Silver Bow" means the local government of the city and county of Butte-Silver Bow, state of Montana, and where applicable, includes its officers, employees, agencies, boards and commissions.

B. "Council of commissioners" means the governing body of the local government of the city and county of Butte-Silver Bow, state of Montana.

C. "Friends of the urban forest board" hereinafter called the urban forest board means the board created by this chapter and appointed by the chief executive and confirmed by the council of commissioners of the city and county of Butte-Silver Bow which is responsible for developing and administering an



urban forestry program within the city and county of Butte-Silver Bow. (Ord. 354 § 4, 1989)

2.76.050 Establishment.

In order to carry out the purpose of this chapter, an urban forestry board is hereby created. This board shall consist of five residents of the city and county of Butte-Silver Bow. (Ord. 354 § 5, 1989)

2.76.060 Appointment--Term--Vacancy.

A. All appointments to the urban forest board will be made by the chief executive subject to confirmation by the council of commissioners.

B. Terms of office of the urban forest board members shall be staggered and shall be two years in duration. For the initial term of members of the urban forest board, two members shall be appointed for one year and three members shall be appointed for two years. There is no limit on the number of consecutive terms that any one member can serve.

C. Vacancies on the board shall be filled within sixty days by appointment by the chief executive and are subject to the confirmation of the council of commissioners for the unexpired portion of the term. (Ord. 354 § 6, 1989)

2.76.070 Meetings.

A. The urban forest board shall adopt rules to govern its meetings, which shall be held at the call of the chairperson, and at such other times as the urban forest board may determine.

B. All meetings shall be open to the public.

C. The urban forest board shall keep minutes of its proceedings showing the vote of each board member upon every question and shall provide a monthly report of its proceedings to the chief executive and the council of commissioners by the tenth of the ensuing month. (Ord. 354 § 7, 1989)

Chapter 2.80

FAIR BOARD

Sections:

- 2.80.010 Purpose.
- 2.80.020 Scope.
- 2.80.030 Definitions.
- 2.80.040 Board created--Membership--Term.
- 2.80.050 Organization of board.
- 2.80.060 Powers.
- 2.80.070 Duties.

2.80.010 Purpose.

The purpose of this chapter is to provide for an appointed board comprised of electors of the city and county of Butte-Silver Bow to supervise the planning and management of the Southwest Montana/Butte-Silver Bow County Fair. (Ord. 359 § 1, 1989)

2.80.020 Scope.

Said fair board shall have control and operation of the fair and the supervision and management of the fair and all fair property. (Ord. 359 § 2, 1989)

2.80.030 Definitions.

The following definitions are provided for the sole purpose of proper interpretation and administration of this chapter:

A. "Board" means the Butte-Silver Bow fair board, and includes the term "county fair commission" as used in Part 34 of Chapter 21 of Title 7, MCA.

B. "Board members" means the appointed members of the Southwest Montana/Butte-Silver Bow County fair board.

C. "Butte-Silver Bow" means the local government of the city and county of Butte-Silver Bow, Montana, and includes all that area within its jurisdictional boundaries.

D. "Chief executive" means the chief executive of Butte-Silver Bow.

E. "Council" means the council of commissioners of Butte-Silver Bow and includes the term "board of county commissioners" as used in Part 34 of Chapter 21 of Title 7, MCA.

F. "Government" means the local government of Butte-Silver Bow.

G. "Treasurer" means the Butte-Silver Bow treasurer and includes the term "county treasurer" as used in Part 34 of Chapter 21 of Title 7, MCA. (Ord. 359 § 3, 1989)

#### 2.80.040 Board created--Membership--Term.

There is hereby created a board to supervise the planning and management of the Southwestern Montana/Butte-Silver Bow County fair board which board shall consist of ten members to be appointed by the chief executive and confirmed by the council. All members of the board must be qualified electors of the city and county of Butte-Silver Bow and shall be well qualified to perform the duties of organizing and successfully carrying on the fair. The members of this board shall hold office for three years and shall serve until their successors are appointed. The terms of members shall be staggered so that after the board is increased to ten members no more than four members may be appointed in any year, except in case of resignation or removal. (Ord. 01-16 § 1, 2001; Ord. 470 § 1, 1994; Ord. 359 § 4, 1989)

#### 2.80.050 Organization of board.

Said board shall organize by electing one of its members' president, and one of its members' vice-president. The Butte-Silver Bow treasurer shall be ex officio the treasurer. The secretary shall be appointed by the board and may be a member of the board. The board shall adopt bylaws to govern the conduct of its operators. (Ord. 359 § 5, 1989)

#### 2.80.060 Powers.

The board shall have control and operation of the fair and the supervision and management of the fair grounds and also the leasing of buildings and fair grounds and shall return to the fair fund of the county all revenue obtained from the leasing or renting of the same as set out in Part 34 of Chapter 21 of Title 7, MCA. (Ord. 359 § 6, 1989)

#### 2.80.070 Duties.

Said board shall do all things necessary to hold a successful fair and shall have charge of all fair grounds and fair property as set out in Part 34 of Chapter 21 of Title 7, MCA. (Ord. 359 § 7, 1989)

### Chapter 2.82

#### URBAN REVITALIZATION AGENCY

##### Sections:

#### 2.82.010 Purpose.

2.82.020 Scope.  
2.82.030 Definitions.  
2.82.040 Board created?Membership?Term.  
2.82.050 Organization of board.  
2.82.060 Powers.  
2.82.070 Duties.

2.82.010 Purpose.

The purpose of this chapter is to provide for an appointed board comprised of electors of the city and county of Butte-Silver Bow to supervise the Butte-Silver Bow urban revitalization agency (URA) in accordance with Section 7-15-4234, MCA. (Ord. 541 § 2, 1996)

2.82.020 Scope.

Said URA board shall have control and operation of the URA, including public purpose activities; promotional activities; facade building conservation and loan programs; and administrative functions. (Ord. 541 § 3, 1996)

2.82.030 Definitions.

The following definitions are provided for the sole purpose of proper interpretation and administration of this chapter:

"Agency" means the Butte-Silver Bow urban revitalization agency.

"Area" means that area within Butte-Silver Bow designated by the council as a blighted area.

"Board" means the Butte-Silver Bow urban revitalization agency board.

"Board members" means the appointed members of the Butte-Silver Bow urban revitalization board.

"Butte-Silver Bow" means the local government of the city and county of Butte-Silver Bow, Montana, and includes all that area within its jurisdictional boundaries.

"Chief executive" means the chief executive of Butte-Silver Bow.

"Council" means the council of commissioners of Butte-Silver Bow.

"Director" means the director of the Butte-Silver Bow urban revitalization agency.

"Government" means the local government of Butte-Silver Bow.

"URA" means the Butte-Silver Bow urban revitalization agency. (Ord. 541 § 4, 1996)

2.82.040 Board created--Membership--Term.

There is created a board to supervise the planning and management of the Butte-Silver Bow URA, which board shall consist of five members to be appointed by the chief executive and confirmed by the council. All members of the board must be qualified electors of Butte-Silver Bow and shall be well qualified to perform the duties of organizing and successfully carrying on URA projects. The members of this board shall hold office for four years and shall serve until their successors are appointed. The terms of members shall be staggered so that no more than three members shall need to be appointed any year except in case of resignation or removal. (Ord. 541 § 5, 1996)

2.82.050 Organization of board.

Said board shall organize by electing one of its members chair, and one of its members vice-chair. A secretary shall be appointed by the board and may be a member of the board. The board shall adopt bylaws to govern the conduct of its operators. (Ord. 541 § 6, 1996)

2.82.060 Powers.

The board shall have control and operation of the URA and the supervision and management of URA projects within the URA area as set out in Parts 42 and 43 of Chapter 15 of Title 7, MCA. (Ord. 541 § 7, 1996)

2.82.070 Duties.

Said board shall do all things necessary to operate a successful urban revitalization agency and shall have charge of all URA projects as set out in Parts 42 and 43 of Chapter 15 of Title 7, MCA. (Ord. 541 § 8, 1996)

Chapter 2.84

TAX INCREMENT FINANCING  
INDUSTRIAL DISTRICTS BOARD

Sections:

- 2.84.010 Purpose and intent.
- 2.84.020 Definitions.
- 2.84.030 Creation of and powers and duties of the TIFID board.
- 2.84.040 Appointment and terms of board members.
- 2.84.050 Meetings and election of officers.
- 2.84.060 Annual reports.

2.84.010 Purpose and intent.

The purpose and intent of this chapter is to provide for an appointed board of citizens of Butte-Silver Bow to assist in the attraction and retention of secondary, value-adding industrial manufacturing that uses Montana timber, mineral, oil, and gas, coal, and agricultural resources in the production of products in this state. More specifically, this board of citizens will administer the Butte-Silver Bow tax increment financing industrial program within those tax increment financing industrial districts established by Butte-Silver Bow. (Ord. 366 § 1, 1989)

2.84.020 Definitions.

The following terms, wherever used or referred to in this chapter shall have the following meanings unless a different meaning is clearly indicated by the context:

A. A "tax increment financing industrial district" means a district so designated by the Butte-Silver Bow council of commissioners in accordance with Chapter 3.32 of this code.

B. "Incremental taxable value" means the amount, if any, by which the actual taxable value at any time exceeds the base taxable value of all property within a tax increment financing industrial district.

C. "Tax increment" means the collections realized from extending the tax levies, expressed in mills, of all taxing bodies in which the tax increment financing industrial district or a part thereof is located against the incremental taxable value.

D. "Industrial district" means a tax increment financing industrial district created by the local government of the city and county of Butte-Silver Bow.

E. "Chief executive" means the chief executive of the city and county of Butte-Silver Bow.

F. "Council of commissioners" means the council of commissioners of the city and county of Butte-Silver Bow. (Ord. 366 § 2, 1989)

2.84.030 Creation of and powers and duties of the TIFID board.

The council of commissioners hereby creates an appointed board of citizens to be know as the Butte-Silver Bow tax increment financing industrial districts (TIFID) board and authorizes the TIFID board to exercise any of the following industrial district powers:

A. To undertake and carry out industrial infrastructure development projects as approved by the council of commissioners;

B. To make and execute contracts as specified in Sections 7-15-4251, 4254, 4255, 4281, and 4288, MCA with the exception of contracts for the purchase or sale of real or personal property;

C. To disseminate industrial development information;

D. To exercise the powers prescribed in Section 7-15-4255, MCA, except the power to agree to conditions for federal financial assistance and imposed pursuant to federal law relating to salaries and wages shall be reserved to the council of commissioners;

E. To enter any building or property in any industrial district in order to make surveys and appraisals in the manner specified in Section 7-15-4257, MCA;

F. To improve, clear, or prepare for development or redevelopment any real or personal property in the industrial district;

G. To insure real or personal property as provided in Section 7-15-4258, MCA;

H. To effectuate industrial infrastructure development project plans;

I. To conduct appraisals, title searches, surveys, studies, and other preliminary plans and work necessary to prepare for the undertaking of industrial infrastructure development projects;

J. To negotiate for the acquisition of land;

K. To study the closing, vacating, planning or replanning of streets, roads, sidewalks, ways, railroad spurs, sewer lines, sewer treatment facilities, waterlines, waterways, water treatment facilities, or other places and to make recommendations with respect thereto;

L. To allocate tax increment financing industrial district funds as appropriated by the Butte-Silver Bow council of commissioners as provided for in Section 7-15-4288, MCA;

M. To organize, coordinate, and direct the administration of the provisions of this section including the hiring or contracting for the necessary staff to do so; and

N. To perform such duties as the council of commissioners may direct so as to make the necessary arrangements for the exercise of the powers and performance of duties and responsibilities entrusted to the council of commissioners. (Ord. 366 § 3, 1989)

#### 2.84.040 Appointment and terms of board members.

A. All appointments to the TIFID board will be made by the chief executive subject to confirmation by the council of commissioners.

B. The TIFID board shall consist of seven members. Following the initial term, the term of each board position is three years and at least one such member must be appointed at the first regular meeting of the council of commissioners in June of each year; provided, that at the first meeting of the council of commissioners after passage of the ordinance codified in this subsection, the chief executive shall appoint two additional members of such board, one to serve for one year and one to serve for two years. A certificate of the appointment or reappointment of any board member shall be filed with the Butte-Silver Bow clerk and recorder, and such certificate shall be conclusive evidence of the due and proper appointment of each board member.

C. Each board member shall hold office until his or her successor has been appointed and has qualified.

D. A board member shall receive no compensation for his or her services but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his or her duties.

E. Any persons may be appointed as board members if they are residents and are qualified electors within Butte-Silver Bow.

F. A board member may be removed for inefficiency, neglect of duty or misconduct in office.

G. At least one board member must be a Butte-Silver Bow commissioner. (Ord. 432 § 1, 1992; Ord. 366 § 4, 1989)

#### 2.84.050 Meetings and election of officers.

A. The TIFID board shall hold meetings as it deems necessary to execute its powers and duties as provided for in Section 2.84.030 and Chapter 3.32 of this code.

B. The TIFID board shall enact bylaws enabling it to elect officers, set officer terms and establish regular meeting times. (Ord. 366 § 5, 1989)

#### 2.84.060 Annual reports.

A. The TIFID board shall file with the council of commissioners, on or before March 31st of each year, a report of its activities for the preceding calendar year.

B. The report shall include a complete financial statement setting forth its assets, liabilities, income, and operating expenses as of the end of such calendar year.

C. At the time of filing the report, the TIFID board shall publish in a newspaper of general circulation in the community a notice to the effect that such report has been filed with the council of commissioners and that the report is available for inspection during business hours in the office of the Butte-Silver Bow clerk and recorder and in the TIFID board office. (Ord. 366 § 6, 1989)

### Chapter 2.86

#### PARKING COMMISSION

##### Sections:

- 2.86.010 Purpose.
- 2.86.020 Scope.
- 2.86.030 Definitions.
- 2.86.040 Need for parking commission declared.
- 2.86.050 Commission created?Membership?Term.
- 2.86.060 Organization of commission.
- 2.86.070 Powers.
- 2.86.080 Duties.

#### 2.86.010 Purpose.

The purpose of this chapter is to provide for an appointed body comprised of electors of the city and county of Butte-Silver Bow to supervise both on-street and off-street parking within the area described in Section 2.86.030, in accordance with Section 7-14-4608, MCA. (Ord. 548 § 2, 1996)

#### 2.86.020 Scope.

Said parking commission shall have control and operation of on-street and off-street parking within that area described in Section 2.86.030 and administrative functions associated with operation of the parking commission. (Ord. 548 § 3, 1996)

2.86.030 Definitions.

The following definitions are provided for the sole purpose of proper interpretation and administration of this chapter:

"Area" means that area within Butte-Silver Bow designated in council resolution No. 116 as the jurisdictional area of the parking commission, and which is described as follows:

Beginning at the northwest corner Section 2, T. 3N., R. 8 W.; thence easterly to northeast corner Section 5, T. 3N., R. 7 W.; thence southerly to northwest corner Section 9, T. 3N., R. 7 W.; thence easterly to northeast corner Section 10, T. 3N., R. 7 W.; thence southerly to southeast corner Section 22, T. 2N., R. 7 W.; thence westerly to southwest corner Section 19, T. 2N., R. 7 W.; thence northerly to northwest corner Section 19, T. 2N., R. 7 W.; thence westerly to southwest corner Section 14, T. 2N., R. 8 W.; thence northerly to southwest corner Section 35, T. 3N., R. 8 W.; thence westerly to southwest corner Section 34, T. 3N., R. 8 W.; thence northerly to northwest corner Section 27, T. 3N., R. 8 W.; thence westerly to southwest corner Section 20, T. 3N., R. 8 W.; thence northerly to northwest corner Section 17, T. 3N., R. 8 W.; thence easterly to northwest corner Section 14, T. 3N., R. 8 W.; thence northerly to the point of beginning.

"Commission" means the Butte-Silver Bow parking commission.

"Commission members" means the appointed members of the Butte-Silver Bow parking commission.

"Butte-Silver Bow" means the local government of the city and county of Butte-Silver Bow, Montana, and includes all that area within its jurisdictional boundaries.

"Chief executive" means the chief executive of Butte-Silver Bow.

"Council" means the council of commissioners of Butte-Silver Bow.

"Director" means the director of the Butte-Silver Bow parking commission.

"Government" means the local government of Butte-Silver Bow. (Ord. 548 § 4, 1996)

2.82.040 Need for parking commission declared.

The council finds and declares that there is a need for a parking commission in Butte-Silver Bow, in accordance with council resolution No. 116. (Ord. 548 § 5, 1996)

2.82.050 Commission created--Membership--Term.

There is created a commission to supervise the planning, operation and management of on-street and off-street parking within the area described in Section 2.86.030, which commission shall consist of five members to be appointed by the chief executive and confirmed by the council. All members of the commission must be qualified electors of Butte-Silver Bow and shall be well qualified to perform the duties of organizing and successfully carrying on parking commission projects. The members of this commission shall hold office for four years and shall serve until their successors are appointed. The terms of members shall be staggered so that no more than three members shall need to be appointed any year except in case of resignation or removal. (Ord. 548 § 6, 1996)

2.86.060 Organization of commission.

Said commission shall organize by electing one of its members chair, and one of its members vice-chair. A secretary shall be appointed by the commission and may be a member of the commission or the director may serve as secretary. The commission shall adopt bylaws to govern the conduct of its operations. (Ord. 548 § 7, 1996)

2.86.070 Powers.

The commission shall determine the qualifications and duties of parking commission employees and shall have control over the supervision and management of parking commission projects within the area, all as set out in Part 46 of Chapter 14 of Title 7, MCA. (Ord. 548 § 8, 1996)

2.86.080 Duties.

Said commission shall do all things necessary to operate a successful parking commission and shall have charge of all parking commission projects as set out in Part 46 of Chapter 14 of Title 7, MCA. (Ord. 548 § 9, 1996)

Chapter 2.88

ANIMAL CONTROL BOARD

Sections:

2.88.010 Animal control board?Duties generally?Membership terms.

2.88.020 Quorum?Meetings.

2.88.010 Animal control board--Duties generally--Membership terms.

A. There is hereby created an animal control board which shall consist of five members appointed by the chief executive at the first meeting of the council of commissioners. All members of the board must reside within the jurisdictional area of the city and county of Butte-Silver Bow.

B. The public health officer, one licensed veterinarian and a member of the council of commissioners shall be members of the board along with two others to be appointed from among interested residents of the city-county.

C. Following the initial term, the term of each board position is three years and at least one such member must be appointed at the first regular meeting of the council of commissioners in June of each year; provided, that at the first meeting of the council of commissioners after passage of the ordinance codified in this chapter, the chief executive shall appoint five members of such board, two to serve for one year, one to serve for two years, and two to serve for three years.

D. It shall be the duty of the animal control board to advise the council on all actions necessary to carry out the provisions of the animal control regulations and to perform such other duties as are described in the various animal control regulations which are set out in Title 6 of this code.

E. Vacancies on the board shall be filled for the unexpired term of any member whose term becomes vacant in the same manner as members are originally appointed and confirmed.

F. At the first meeting after appointment, the board shall elect a chairman and vice-chairman to serve for a period to be set by the board.

G. Board members shall serve without compensation. Board members shall be reimbursed for actual expenses incurred in the performance of their duties in the same manner as employees of Butte-Silver Bow government are reimbursed. (Ord. 376 § 1, 1990)

2.88.020 Quorum--Meetings.

A majority of the members of the board shall constitute a quorum for the transaction of business. The board shall adopt rules to govern its meetings which meetings shall be held at least once quarterly at the call of the chairman and at such other times as the board may determine. All meetings of the board shall comply with the provisions of the Montana Open Meeting Law. The board shall keep minutes of its proceedings showing the vote of each member upon each



question and shall provide a quarterly report of its proceedings to the chief executive and the council of commissioners. (Ord. 376 § 2, 1990)

## Chapter 2.92

### COMMUNITY ENRICHMENT APPEALS BOARD

#### Sections:

2.92.010 Community enrichment appeals board.

2.92.020 Quorum--Meetings.

2.92.010 Community enrichment appeals board.

A. There is created a community enrichment appeals board which shall consist of five members appointed by the chief executive at the first meeting of the council of commissioners in June of each year. All members of the board must reside within the jurisdictional area of the city and county of Butte-Silver Bow.

B. Following the initial term, the term of each board position is three years and at least one such member must be appointed at the first regular meeting of the council of commissioners in June of each year; provided, that at the first meeting of the council of commissioners after passage of the ordinance codified in this chapter, the chief executive shall appoint five members of such board, two to serve for one year, one to serve for two years, and two to serve for three years.

C. It shall be the duty of the community enrichment appeals board to hear appeals from decisions of the agency in matters dealing with enforcement of the community decay regulations which are set out in Chapter 8.06 of Title 8 of this code.

D. Vacancies on the board shall be filled for the unexpired term of any member whose term becomes vacant in the same manner as members are originally appointed and confirmed.

E. At the first meeting after appointment, the board shall elect a chairman and vice chairman to serve for a period to be set by the board.

F. Board members shall serve without compensation. Board members shall be reimbursed for actual expenses incurred in the performance of their duties in the same manner as employees of Butte-Silver Bow government are reimbursed. (Ord. 455 § 2, 1993)

2.92.020 Quorum--Meetings.

A. A majority of the members of the board shall constitute a quorum for the transaction of business. The board shall adopt rules to govern its meetings which meetings shall be held at least once quarterly at the call of the chairman and at such other times as the board may determine.

B. All meetings of the board shall comply with the provisions of the Montana Open Meeting Law. The board shall keep minutes of its proceedings showing the vote of each member upon each question and shall provide a quarterly report of its proceedings to the chief executive and the council of commissioners. (Ord. 455 § 3, 1993)

## Chapter 2.96

### MOSQUITO CONTROL DISTRICT BOARD

#### Sections:

2.96.010 Purpose.

2.96.020 Scope.  
2.96.030 Definitions.  
2.96.040 Created?Members' appointment, terms and removal?Vacancy filling?Officers' election.  
2.96.050 Meetings.  
2.96.060 Duties.  
2.96.070 Powers of mosquito control board.  
2.96.080 Financing.  
2.96.090 Cooperation with State Departments of Health and Environmental Sciences and Agriculture.

2.96.010 Purpose.

The purpose of this chapter is to provide for an appointed board of citizens of Butte-Silver Bow to supervise the affairs and management of the Butte-Silver Bow mosquito control district created by council resolution no. 1302. (Ord. 484 § 2, 1994)

2.96.020 Scope.

The Butte-Silver Bow mosquito control district board shall have authority to enter into agreements as provided in Section 2.96.070 for the operation of mosquito control activities and to supervise the management and affairs of said mosquito control activities within the district. (Ord. 484 § 3, 1994)

2.96.030 Definitions.

The following definitions are provided for the sole purpose of proper interpretation and administration of this chapter:

- A. "Board" means the Butte-Silver Bow mosquito control board.
- B. "Butte-Silver Bow" means the local government of the city and county of Butte-Silver Bow, state of Montana, and includes all of that area within its jurisdiction.
- C. "Chief executive" means the chief executive of Butte-Silver Bow.
- D. "City-county" means the local government of the city and county of Butte-Silver Bow, state of Montana, and includes all of that area within its jurisdiction.
- E. "Council" means the council of commissioners of Butte-Silver Bow.
- F. "District" means the mosquito control district created under the provisions of council resolution no. 1302.
- G. "Government" means the local government of Butte-Silver Bow.
- H. "Mosquito" means any insect belonging to the family Culicidae of the order Diptera.
- I. "Mosquito pest" means any group of mosquitos which annoy man or his domestic animals or transmit any disease of man or of his domestic animals. (Ord. 484 § 4, 1994)

2.96.040 Created--Members' appointment, terms and removal--Vacancy filling--Officers' election.

A. There is created a board to supervise the affairs and management of the mosquito control district, which board shall consist of five members to be appointed by the chief executive and confirmed by the council. All members of the board must be qualified electors of the district.

B. The members of this board shall hold office for three years and at least one such member must be appointed at the first regular meeting in May of the council of each year; provided, that at the first meeting of the council after passage of the ordinance codified in this chapter, the chief executive shall appoint five members of such board, two members to serve for one year, one member to serve for two years and two members to serve for three years.

C. The board is a body corporate and shall act as such, and the members are public officers.

D. The health officer, the sanitarian or a member of his staff and the county extension agent are ex officio members without vote.

E. Members may be removed for cause by a two-thirds majority of the confirming authority upon written charges and after public hearing.

F. Vacancies on the board shall be filled for the unexpired term of any member whose term becomes vacant in the same manner as members are originally appointed and confirmed.

G. At the first meeting after appointment, the board shall elect a chairman, vice-chairman and a secretary to serve for a period to be set by the board. (Ord. 484 § 5, 1994)

#### 2.96.050 Meetings.

The board shall adopt rules to govern its meetings which meetings shall be held at the call of the chairman and at such other times as the board may determine. In the absence of the chairman, the vice-chairman shall preside. The board shall keep minutes of its proceedings showing the vote of each member upon each question and shall provide a quarterly report of its proceedings to the chief executive and the council by the tenth of the ensuing month following the quarterly meeting. The board may meet more often when proper notice is given of such meetings. (Ord. 484 § 6, 1994)

#### 2.96.060 Duties.

The board shall establish policy for the management of mosquito control activities. The board shall make rules necessary to protect the general public from mosquitos or mosquito pests. The board shall also make rules necessary to provide order for the operation of the mosquito control program. (Ord. 484 § 7, 1994)

#### 2.96.070 Powers of mosquito control board.

The mosquito control board shall have power to:

A. Develop and administer a program for the abatement and alleviation of mosquito pest conditions within the district.

B. Employ such suitable and competent assistance and employees as may be necessary and provide for their compensation.

C. Purchase, rent or execute leasing agreements for such equipment and material as they may determine to be necessary for carrying on an effective control program.

D. Cooperate with any corporation, association, individual or group of individuals, including any agency of the federal or state governments, in a mosquito abatement program.

E. Receive gifts, grants or donations for the purpose of advancing its program.

F. Take such action as may be necessary or advisable to survey, control, modify or abate any condition which may or does contribute to the existence of the mosquito pest and for this purpose enter upon any premises located within the said district, through its members, employees or agents. (Ord. 484 § 8, 1994)

#### 2.96.080 Financing.

The board shall be financed by collection of an annual fee from the owners of structures that are benefitted by the mosquito control services offered by the district. The fees provided above must be collected with the general taxes of the city-county. The assessments are a lien on the property assessed. The proceeds from the fees must be placed in a separate fund with the treasurer and

must be used solely for the purpose for which the mosquito control district was created. (Ord. 484 § 9, 1994)

2.96.090 Cooperation with State Departments of Health and Environmental Sciences and Agriculture.

The board shall maintain a close working relationship with the State Departments of Health and Environmental Sciences and Agriculture in the adoption of standards, development of competency needed to meet local problems, use of expert consultive services available, and in obtaining state and federal funds to meet the public health needs of the community. (Ord. 484 § 10, 1994)

Chapter 2.98

DISTRICT WEED BOARD

Sections:

- 2.98.010 Purpose.
- 2.98.020 Scope.
- 2.98.030 Definitions.
- 2.98.040 District weed board created?Members' appointment.
- 2.98.050 Meetings.
- 2.98.060 Organization.
- 2.98.070 Terms.
- 2.98.080 County agricultural agent secretary and ex officio member.

2.98.010 Purpose.

The purpose of this chapter is to provide for an appointed board of citizens of Butte-Silver Bow to supervise the affairs and management of the Butte-Silver Bow weed management district as required by Part 21 of Chapter 22 of Title 7, Montana Code Annotated (MCA) and as created by Section 8.04.050 of the Butte-Silver Bow Municipal Code. (Ord. 486 § 2, 1994)

2.98.020 Scope.

The Butte-Silver Bow district weed board shall have authority to enter into agreements as provided in Chapter 4 of Title 8 of the Butte-Silver Bow Municipal Code for the operation of weed control activities and to supervise the management and affairs of said weed control activities within the district, all pursuant to Part 21 of Chapter 22 of Title 7, MCA. (Ord. 486 § 3, 1994)

2.98.030 Definitions.

The following definitions are provided for the sole purpose of proper interpretation and administration of this chapter:

- A. "Board" means the Butte-Silver Bow district weed board.
- B. "Butte-Silver Bow" means the local government of the city and county of Butte-Silver Bow, state of Montana, and includes all of that area within its jurisdiction.
- C. "Chief executive" means the chief executive of Butte-Silver Bow.
- D. "City-county" means the local government of the city and county of Butte-Silver Bow, state of Montana, and includes all of that area within its jurisdiction.
- E. "Council" means the council of commissioners of Butte-Silver Bow.
- F. "District" means the weed management district created under the provisions of Section 8.04.050 of the Butte-Silver Bow Municipal Code.
- G. "Government" means the local government of Butte-Silver Bow. (Ord. 486 § 4, 1994)

2.98.040 District weed board created--Members' appointment.

A. There is created a board to supervise the affairs and management of the district, which board shall consist of five members to be appointed by the chief executive and confirmed by the council.

B. Three members of the board shall be rural resident agricultural landowners, one member shall be an urban resident landowner and one shall be a member at large.

C. All members of the board shall reside within the jurisdictional area of Butte-Silver Bow. (Ord. 486 § 5, 1994: Ord. 268 § 1 (part), 1986)

2.98.050 Meetings.

The board shall adopt rules to govern its meetings which meetings shall be held at the call of the chairman and at such other times as the board may determine. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings showing the vote of each member upon each question and shall provide a monthly report of its proceedings to the chief executive and the council by the tenth of the ensuing month. (Ord. 486 § 6, 1994: Ord. 268 § 1 (part), 1986)

2.98.060 Organization.

A. The board shall organize by choosing a chairman and a vice-chairman.

B. Board members shall serve without salary. Per diem and mileage of such board members shall be set out by ordinance of the council.

C. A majority of the board constitutes a quorum for the conduct of business. (Ord. 486 § 7, 1994: Ord. 268 § 1 (part), 1986)

2.98.070 Terms.

A. Except as provided in subsection B of this section, a member of the board shall serve a term of three years and until the qualification of his/her successor. The term of office begins March 1st.

B. Two members of the initial board shall serve terms of one year, two members shall serve terms of two years and one member shall serve a term of three years. After expiration of an initial term of office, the successor shall serve a three-year term as provided in subsection A of this section.

C. Members of the board may be removed for cause by a two-thirds vote of the confirming authority upon written charges and after public hearing.

D. Vacancies on the board shall be filled for the unexpired term of any member whose position becomes vacant in the same manner as members are originally appointed and confirmed. (Ord. 486 § 8, 1994: Ord. 268 § 1 (part), 1986)

2.98.080 County agricultural agent secretary and ex officio member.

The county agricultural extension agent of Butte-Silver Bow shall be an ex officio nonvoting member of the board and shall serve as the secretary of the board. (Ord. 486 § 9, 1994: Ord. 286 § 1 (part), 1986)

